

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, January 7, 2013 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 (via telephone), Robert Griffith; Martha Hicks; Glenn Johnson

Members Absent: None

Call To Order

Chairman Poteat called the meeting to order at 3:30 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 Comments

Robert Wiseman, County Manager, announced that R.D. Daniels, Avery Senior Services Director is retiring at the end of January. The Human Resources Director and a panel from the Senior Services interviewed the potential applicants and there has been a decision made and an offer issued.

Garland Honeycutt, Chairman and President of the Blue Ridge Values Coalition, presented the Board of Commissioners with a framed resolution unanimously passed by the Blue Ridge Values Coalition Board which stated that the coalition commits to praying for the Board of Commissioners with supplications, prayers, intercessions and giving of thanks.

Chairman Poteat thanked the Blue Ridge Values Coalition for the presentation and stated that the Board accepted this resolution humbly and hoped that the Board proved themselves to be worthy.

Cathy Miller, Blue Ridge Values Coalition, announced that a candlelight service for unborn children in observance of Sanctity of Human Life Sunday will be held at the Oak Grove Baptist Church on January 20, 2013 at 5:00 p.m.

Phyllis Forbes addressed the Board and the audience stating that she was sorry that she could not be at the meeting but she was on the West Coast helping a friend get ready to move across country and would be back the end of February. "In the meantime I have not missed a meeting by telephone. I have talked to the County Manager about twice a week and the clerk or someone in the office everyday and I keep abreast of everything going on and I don't want anyone to get concerned that I am out of touch or out of the loop. I feel like I am staying in tune to be able to vote. I wanted to offer that reassurance that I feel like I need to be a voting member although I am not physically present I am on the phone every time."

Voting Delegate – Legislative Goals Conference

Mr. Wiseman stated that each Board of County Commissioners is requested to designate a commissioner as a voting delegate for the Legislative Goals Conference. The delegation decides which goals that they want to support as an association. There are some things that do not have an impact on Avery County such as "fracking" but there are other issues that can impact us. Chairman Poteat has been going for several years and knows the "ropes" and the individuals involved.

Motion by Reo Griffith and second by Martha Hicks to nominate Chairman Kenny Poteat as the voting delegate for the Legislative Goals Conference. Motion unanimously approved with those voting. (4-0)

Annual Audit Report – Sharon Gillespie

Sharon Gillespie with Young, Miller and Gillespie auditors presented the Annual Audit Report for the period ending June 30, 2012. Ms. Gillespie called the Board's attention to the Financial Highlights for Avery County. The assets of Avery County exceeded the liabilities at the close of the fiscal year by \$26,524,136. At the close of the current fiscal year, Avery County's governmental funds reported a fund balance of \$16,532,767 a decrease of \$2,488,720 and approximately 67% of this total amount or \$11,161,794 is available for spending at the government's discretion. The unreserved fund balance was \$4,784,068 or 20 percent of general fund expenditures. Avery County is maintaining a 20% fund balance

which the Local Government Commission considers a healthy fund balance. As far as the net assets, most of the \$26,524,136 is made up of the buildings, land and equipment. The reduction in net assets for the year was caused by the transfer of the costs of the Banner Elk School to the Avery County Board of Education. The current year tax collection percentage is 96.33%. When the rate is compared to the 2011 rate statewide among small counties, Avery County is higher than the average of 94.54%. There were no findings to speak of this year in the audit. Avery County is entrusting a small number of people to handle all the finances in the county and as such the Board needs to stay involved in the financial part. Ms. Gillespie stated that she has never had to change Tim Greene's records. He has done an excellent job and that should let you know that the financial information that he gives you throughout the year is accurate.

Glenn Johnson questioned Ms. Gillespie in her opinion how did Avery County compare with some of the other entities her firm has audited as far as the financial status. Ms. Gillespie stated that there was no comparison with the quality of Avery County and 70% of the entities that is audited. She said that Avery County was far above and beyond as far as financial management.

Chairman Poteat thanked Tim Greene, Finance Officer, and his staff for the good job.

Martha Hicks commended Phillip Barrier and his staff for the collection of the taxes.

Motion by Martha Hicks and second by Reo Griffith to accept the Annual Audit Report for the period ending June 30, 2012. Motion unanimously approved.

Avery County Chamber of Commerce – Sue Freeman; Nancy Morrison

Sue Freeman and Nancy Morrison presented a power point presentation about the Avery County Chamber of Commerce. In 2011 Avery County was #1 in growth in tourism in North Carolina. Ms. Freeman explained the different avenues that the Chamber used to promote Avery County. Ms. Freeman and Ms. Morrison requested that the Board of Commissioners consider \$5000 be put in the 2013/2014 budget for the Avery County Chamber of Commerce to help promote Avery County with advertising. Chairman Poteat instructed Ms. Freeman to put in a formal request in March for the \$5000.

Consensus by the Board to consider the request for \$5000 for the Avery County Chamber of Commerce in the upcoming budget 2013/2014.

Tax Administrator Report – Phillip Barrier
Tax Collections Report

The Tax Collections Report for the month of December 2012 is \$4,795,317.00.

Motion by Glenn Johnson and second by Martha Hicks to accept the Tax Collections Report as presented. Motion unanimously approved.

Real and Personal Releases

The Real and Personal Releases for December 2012 is \$6,041.87. \$5930.01 was recollected in the correct owner's name.

Motion by Phyllis Forbes and second by Martha Hicks to accept the Real and Personal Releases as presented. Motion unanimously approved.

Motor Vehicle Releases

The Motor Vehicle Releases for the month of December 2012 is \$419.59.

Motion by Glenn Johnson and second by Martha Hicks to accept the Motor Vehicle Releases as presented. Motion unanimously approved.

Sales Statistics

Mr. Barrier reported that the total sale amount was higher than the tax value for 2 weeks out of 4 for the month. There were only 4 foreclosures for the entire month of December.

Mr. Barrier went over the examples of the sales throughout the county.

Resolution – Revaluation

Mr. Barrier stated that the last revaluation was in 2010. We have been on the four year cycle. According to the law we do not have to do revaluation but every eight years. This resolution needs to be adopted to say we are going to proceed with the 2014 revaluation.

Chairman Poteat stated that several years ago that the Board decided to go with a four year revaluation which is more realistic occurring in four years instead of eight years. In 2010 we did not take advantage of anyone, we went ahead and stayed the course where other counties did not. Other counties did what they thought would keep their coffers high on a higher tax rate and did not reval until the 8 years came but we stuck with it and did the revaluation every four years even though it did hurt us somewhat. Looking at the trend right now with the statistics more than likely the revaluation in 2014 will benefit the taxpayers of Avery County in a lower valuation overall than has been in the past.

Mr. Barrier stated that he is to attend a meeting in Greensboro regarding the recent revaluation in Mecklenberg County and what went wrong and the General Assembly is saying that possibly eight years is too long to wait.

Glenn Johnson commented that certainly people would want to see their tax values low until they go to sell. Keep in mind if the tax value goes up then the tax rate can come down to generate the same amount to provide the same services. If the tax value drops in order to generate the same amount of money and provide the same services this Board has to increase the tax rate.

Motion by Phyllis Forbes and second by Martha Hicks to adopt the Resolution to advance the reappraisal of real property to January 1, 2014. Motion unanimously approved.

Glenn Johnson stated that everyone needed to keep in mind that Avery County enjoys the 10th lowest tax rate in the state of North Carolina because of the higher valuations of multimillion dollar homes. The reason as local people we enjoy the tax rate we have is because of the gated communities that are paying the same tax rate on 5 million dollar homes but hardly using any of the services in the county. Mr. Barrier commented that there had been rumors in the past that there was a "tax cap" in Avery County but that is definitely not the case.

Sedimentation and Soil Erosion Ordinance – Tommy Burleson

Tommy Burleson, Planning and Inspections Director, stated that this was an update with the Sedimentation and Soil Erosion Ordinance to have our local program be in compliance with the North Carolina law. This ordinance deals with the grading permits. He said that the proposal was to change the grading permits to \$75.00 review and then a \$50.00 prorated per acre grading permit and Mr. Griffith pointed out that would get rather expensive on bigger tracts of land so this has been changed to \$25.00 review fee and then the site plan would be \$100.00. Mr. Burleson requested that the Sedimentation and Soil Erosion Ordinance Amendments be accepted and for the Board to approve the Memorandum of Agreement between the North Carolina Sedimentation Control Committee and the Avery County Local Government.

Michaelle Poore, County Attorney, stated that there were two things that required action of the Board today. At the last Board meeting the board voted on the amendments to the erosion ordinance and it was passed with the understanding that the language fee be changed. That does require a second vote by the Board today. There would need to be a separate approval of the Memorandum of Agreement.

Martha Hicks stated that she had read over the proposal and that she would like for the attorney to look over that before a vote is taken and the ordinance adopted. There might be something else that needs to be looked at by the attorney. Ms. Poore said that she had read over what Mr. Burleson had provided and it is acceptable as to form but if the Board would like for her to do a letter and break down what the existing ordinance has and the new ordinance has she could do that. Ms. Poore said she did not see any substantive changes from the existing ordinance. Previously we had the existing ordinance and there had been two amendments to it and those amendments are incorporated into the new document so there would be just one document instead of three separate documents. Ms. Poore stated that the biggest change was the fee schedule. There were no substantive changes in the mechanics.

Chairman Poteat instructed the County Attorney to do a "side by side" comparison and present that before the February 4, 2013 meeting.

County Manager Updates – Robert Wiseman

Renovation of Courthouse

Mr. Wiseman stated that he had been working with MB Kahn Construction Manager in the renovation of the small courtroom. We are using local labor to do this renovation. As far as the existing courtroom and clerk of court's office, we hope to start by the first of April. The plans are in the process right now.

Reclaimed Resources

Mr. Wiseman advised that Mr. Buddy Norris, Solid Waste Director, had been working hard with Reclaimed Resources and legal counsel has been involved. There are 5 months left on the existing contract with the City of Bristol. We have three other facilities that will take our trash if we choose to do so. If Reclaimed Resources meet their schedule and produce what they have promised, the people of Avery County could realize in two years a savings of ¾ of a million dollars. If something was to happen and everything falls apart Avery County is no worse. We have everything to gain and nothing to lose. If this project is a success and we get on board, that is 2 cents on the tax rate if we realize the savings. If they fall on their face, we are still good to go with Bristol.

Mr. Norris stated that the only expectation for Avery County is to support a request to provide random samples of the waste stream. Reclaimed Resources would collect these on their own. The technology provider will need to run samples of a feed stock throughout the distinct four seasons to determine BTU value of the base. Chairman Poteat questioned if the anticipated sampling would be an overburden to the solid waste department. Mr. Norris answered that this would not be labor intensive or disruptive to the solid waste department.

Reo Griffith questioned why Avery County was the “golden child” with regard to being the “host community”. Mr. Norris answered that one of the reasons is that Avery County is the only county in North Carolina that is served by the Tennessee Valley Authority. The second reason is that all of the counties in the service area for Reclaimed Resources are bound by lengthy contracts and those counties are not able to sever those.

Glenn Johnson said that in reference to Avery County being served by the Tennessee Valley Authority it was his understanding that Mountain Electric Cooperative is required by a certain date to have a certain amount of electricity come from renewable forms. Not only could Avery County benefit greatly money wise the first two years but we could become the first county to be virtually 100% recyclable.

Mr. Norris stated that there did not need to be any more board action at this time he just wanted a consensus of the Board to pursue a contract with all of the appropriate language and preventive measures.

Phyllis Forbes commented that she had a good conversation with Buddy Norris about this and that she felt comfortable with this and thought that a contract should be pursued.

Martha Hicks said she was reluctant at first about this but she had done a lot of research and that Avery County has nothing to lose. We can go back to the old way if this doesn't work.

Consensus by the Board to proceed with the next step and look at a contract with Reclaimed Resources.

Finance Officer Report – Tim Greene

No finance officer report.

County Attorney Report – Michaelle Poore

No county attorney report.

Staff Report and Requests

Reo Griffith requested that the Board make a motion to adopt a Resolution to send to the North Carolina Department of Transportation concerning a hazardous road problem on NC 194 near the 4800 block (Banner Elk Highway). There is a problem there with the road.

Motion by Reo Griffith and second by Martha Hicks to adopt a Resolution to send to the North Carolina Department of Transportation concerning a hazardous road problem on NC 194 near the 4800 block. Motion unanimously approved.

Commissioner Griffith requested that the floor be opened for nomination for a vice chair. Chairman Poteat said he had alluded at the last meeting that the Board would await a full board present in body to address that but he did not have no problem with going in that direction.

Motion by Reo Griffith to nominate Martha Hicks for Vice-Chairman.

Motion died for lack of a second.

Chairman Poteat said that in his opinion that once we are here physically in March that we will certainly address that issue.

Commissioner Griffith stated that we do realize Ms. Martha Hicks was the top vote getter in the last two elections.

Commissioner Griffith stated "Just after the May primary, Mr. Jim Fitzpatrick came to me who is a loyal supporter of mine. Mr. Fitzpatrick is the Chief Operating Officer of Headwaters. Mr. Fitzpatrick said he owned the store at Heaton and would like for me to introduce the sale of beer and wine countywide. He never much more got it out of his mouth than my answer was No, No, No! When it comes to beer and wine and alcoholic beverages my answer will be No. I went on to explain that I was going to be politically incorrect but at least you know where I stand knowing the trouble that alcohol has caused and the deaths and destruction. The other four board members may say we are going to vote but don't ever count on my vote because it will be no. Telling this little story brings up the county being in the brewery business over at the incubator at Banner Elk; I am against it. Reo is against a brewery being in the old Banner Elk School. Reo is against it."

Glenn Johnson said "we were down to Staff Report and Requests and as a matter of the point of order I don't know if this was the time to discuss these but it seems to me like this should have been brought up under Public Comments.

Chairman Poteat said he would assume responsibility for this and for recognizing Mr. Griffith.

Mr. Griffith said he was not aware that he could speak in Public Comments.

Closed Session

Phyllis Forbes stated "I have a comment to make regarding closed session. We had a letter from the attorney saying that because of confidentiality reasons I could not listen in on closed session via phone therefore unless it was an emergency situation I would request that whatever the issue is be tabled until I can be there personally and be a part of that because I am an elected part of that board."

Michaelle Poore, County Attorney, stated that her concern with the use of the phone in closed session is due to the fact of the security and confidentiality of telephone lines including wireless carriers that cannot be verified here tonight at the time of the closed session.

Ms. Forbes stated "however in North Carolina you are on a landline and I don't know anyone in Washington State who would be interested in listening into a conversation on the cell phone about Avery County."

Motion by Phyllis Forbes to table the Closed Session until March 4, 2013.

Motion failed due to lack of a second.

Chairman Poteat advised since there was no second to the motion that there would be a closed session at this time with the invitees being the four present board members, clerk, county manager, county finance officer, county attorney and others in the audience that might be needed.

Glenn Johnson asked if the closed session could be taped and sent to the board member. The County Attorney stated that she did not recommend that.

Phyllis Forbes stated that she had sat in on closed session before. Ms. Poore said she did sit it in on closed session before but she had spoken with the School of Government and they do not recommend remote participation in closed session.

Reo Griffith said "I wish Ms. Phyllis was sitting here beside me so I could talk to you face to face. Since May you have missed numerous meetings representing this county body. The county pays us. If I am going to hire someone to build fence on the farm they have to be at the farm to build fence they can't be on the West Coast. "

Phyllis Forbes stated "if you will check the records Reo I have been in attendance on every meeting that I have been traveling via the phone and I can assure you that after March I will not be doing this again."

Reo Griffith said "Ma'am we cannot build fence on the phone we have to be on the job or need to be."

Motion by Glenn Johnson and second by Martha Hicks to go into Closed Session at 5:50 p.m. regarding N.C. G.S. 143-318.11(a)(6) regarding Personnel. Invitees are the four members of the Board, County Manager, County Attorney, Finance Officer, Clerk and others in the audience deemed necessary.

**Vote: For: Kenny Poteat; Reo Griffith; Martha Hicks; Glenn Johnson; Against: Phyllis Forbes.
Motion passes 4 to 1.**

Chairman Poteat declared the meeting to be back in Regular session at 7:15 p.m. after a time of Closed Session. During Closed Session, no vote was taken.

Approval of Minutes

Motion by Martha Hicks and second by Glenn Johnson to approve the November 27, 2012 Special Meeting Minutes and the December 3, 2012 Regular Session minutes. Motion unanimously approved.

Agenda Consent Items

Adopted by consensus of the Board.

Upcoming Meetings

The next regular meeting is February 4, 2013.

Adjourn

**Motion by Martha Hicks and second by Glenn Johnson to adjourn this meeting at 7:22 p.m.
Motion unanimously approved.**

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

ATTEST: _____
Cindy Turbyfill, Clerk