

**STATE OF NORTH CAROLINA  
COUNTY OF AVERY**

The Avery County Board of Commissioners met in a Regular Session on Monday, July 7, 2014 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC.

Members Present: Kenny Poteat, Chairman; Glenn Johnson Vice-Chair; Reo Griffith

Members Absent: Phyllis Forbes (vacation); Martha Hicks (family illness)

**Call To Order**

Chairman Poteat called the meeting to order at 3:30 p.m.

Chairman Poteat led prayer.

Chairman Poteat announced that anyone that would like to speak to an agenda item must sign up on the sheet with the clerk otherwise there would be a time of public hearing.

**Proclamations and Awards**

Robert Wiseman, County Manager, stated that at the last meeting the Board had instructed the County Manager to compose a resolution recognizing the positive statewide recognition of the Communications Department. Chairman Poteat read aloud the resolution:

*Whereas, the Avery County Communication Center has received state recognition from the North Carolina E911 Board and,*

*Whereas, it has been determined that 99.6% of emergency calls received at Avery County Communication Center are responded to in less than 10 seconds and,*

*Whereas, the staff and leadership in the Avery County Communication Center are Outstanding in their field,*

*Therefore, Be it Resolved, that the Avery County Board of Commissioners recognizes and congratulates the staff and leadership for an exemplary job which is appreciated by all concerned.*

Chairman Poteat presented Jamey Johnson, Director of Avery County Communications with a copy of the resolution.

Reo Griffith thanked Mr. Johnson and his staff and emphasized that the Communication Center is the county's lifeline.

**Public Comment**

There were no public comments.

**Board Appointments**

**NCACC Voting Delegate**

Each county is asked to select a voting delegate for the NCACC Annual Conference which will be held August 14-17, 2014 in Buncombe County. The delegate will cast the County's vote during the annual business session. Chairman Poteat stated that he would represent the County if this Board so chose.

**Motion by Reo Griffith and second by Glenn Johnson to appoint Kenny Poteat as the voting delegate for the NCACC Annual Conference in August 2014. Motion unanimously approved with those in attendance (3-0).**

**Avery County Ranger's Report – Joe Shoupe**

Joe Shoupe, Avery County Ranger, presented his annual report to the Board of Commissioners. Mr. Shoupe reported that in the fall of 2013 there was less than normal occurrence of forest fires due to it being so wet but in the spring of 2014 there were 25 fires that burned 34.8 acres. Several of the county's volunteer fire departments have received 50/50 matching grant funding through the NC Forest Service Awards Program which enables them to purchase up to \$2000.00 worth of firefighting gear such as personal protective equipment, hand tools or water handling equipment such as forestry hose, fittings, and nozzles.

We have done a lot of training this past year. There were 46 timber harvest site inspections covering 614 acres. As far as forest management, we wrote 32 management plans for about 1000 acres. Mr. Shoupe thanked the Board of Commissioners for their continued support.

Chairman Poteat questioned what would necessitate a burn permit and where they were available. Mr. Shoupe stated that from 4:00 p.m. to midnight you do not have to have a burn permit. From 11:00 a.m. to 4:00 p.m. that is the hottest, driest part of the day. There are several ways to obtain a burn permit. They are free for now. They can be obtained online at [NCForestService.gov](http://NCForestService.gov). There is a burn permit agent in each community in the county.

#### **Tax Administrator Report – Phillip Barrier**

##### **Tax Collection Report**

The total tax collection for the month of June 2014 is \$110,584.78.

**Motion by Glenn Johnson and second by Reo Griffith to approve the Tax Collection Report for the month of June 2014. Motion unanimously approved with those in attendance (3-0).**

##### **Collection Report for the Fiscal Year**

The 2013 Tax Bills to be collected is \$18,291,457.66; total collected is \$17,614,588.89. That is 96.30%. Real and Personal Property is 96.57%; motor vehicles for 2013 is 83.29% up from 78%. Back taxes that were collected for 2009 \$40,542.00; 2010 \$53,583.00; 2011 \$97,000.00; 2012 \$110,823.00; 2013 \$343,333.00 and 2014 was \$17,000,000. Mr. Barrier stated that one of the things that he had started when he became Tax Administrator was payment agreements; payment agreements outstanding for 2013 are \$122,124.13. Attorney pursuits outstanding are \$37,041.49 for 2013 and \$270,893.80 for 2000-2013.

##### **Regular Releases**

Regular Releases for the month of June 2014 is \$265.16. These involve tax years from 2004 to 2013. A lot of this is the \$2.00 clean up and a lot of personal property that we cannot find.

**Motion by Glenn Johnson and second by Reo Griffith to approve the Regular Releases for the month of June 2014 as presented. Motion unanimous with those in attendance (3-0).**

##### **Motor Vehicle Releases**

The Motor Vehicle Releases for the month of June 2014 is \$51.60.

**Motion by Reo Griffith and second by Glenn Johnson to approve the Motor Vehicle Releases for the month of June 2014 as presented. Motion unanimous with those in attendance (3-0).**

The sales statistics and revaluation sales were reported by Mr. Barrier.

#### **Avery Historical Museum – Cindy Peters**

Cindy Peters, Chair of the Avery County Museum Board, reported that on May 26, 2014 an economic impact study commissioned by the Blue Ridge National Heritage Area showed that heritage tourism contributes 2.39 billion dollars to the economy of Western North Carolina supporting more than 30,000 jobs and generating 176 million in state and local tax revenue. We are here today to talk about the Linville Depot. We started this project in 2007 with an estimated cost of \$600,000. To date, we have raised \$75,000 and are near completion. We have had an architect who worked every day for three years saving us \$100,000, we have an architectural designer who has worked seven years for \$150,000 savings and a master carpenter Jerry Turbyfill. Last week we had 150 visitors that came to see the caboose that has not been restored and a museum that has not officially opened.

Jerry Turbyfill shared with the Board about the caboose that had been donated to the Avery County Museum. The caboose was donated to Avery County by Frank Winston from Johnson City, Tennessee. The caboose was well preserved on the inside. We were very lucky to receive this caboose because a lot of different museums and railroad people offered quite a bit of money for that caboose and luckily Avery County received it. This was the last caboose on the ET&WNC. As of today we have a gift through charity of \$33,620.00 and by the end of year I hope we will be touching \$35,000 to help restore the caboose.

Joel Shipley stated that the historical society has put in a request for \$10,000. We are trying to finish up the handrail at the handicapped ramp, finish the electrical rough in's and install the light fixtures in the freight room area. We will insulate the walls and the balance would complete the HVAC and any monies left would be used to begin the trim out and paneling of the freight room area.

Chairman Poteat asked Mr. Shipley to give to the Finance Officer a breakdown of the work that needed to be done and prioritize it. He also said that he would request that we would wait for a full board.

## Recess

Chairman Poteat asked for a brief recess.

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

## County Manager Updates – Robert Wiseman

### Courthouse Renovation

Mr. Wiseman stated that progress is proceeding as scheduled on the renovation of the courthouse. We are still looking at the latter part of September to get a partial certificate of completion. The progress is being monitored closely by MB Kahn. MB Kahn's representative is here 2-3 days a week. Our court staff, register of deeds, building inspections staff has been very patient with this process.

### Crossnore Bridge

Ms. Rachel Deal and Ms. Ann Baker are heading up an effort to rebuild the walking bridge at Crossnore that went over the road at the Crossnore Presbyterian Church. We are going to have a meeting with the appropriate DOT officials to discuss the complications that we might run into. Ms. Rachel Deal said there was no county money involved. The only thing the county would be doing is giving the ok under the conditions that the DOT wants. Chairman Poteat stated that the county manager and county would help as much as they could.

### AC Pride

Mr. Wiseman stated "we have a notice to go into the paper and a matter of fact it is already in there that Michaelle Poore, legal counsel, put together. As you now before we can spend taxpayer's money on anything to do with the incubator with some exceptions we have to have a public hearing and explain what that money is going to be used for. We have been going through this. I will take full responsibility for this and we have had some miscommunication with the inspections department. The public hearing is advertised for the next regular commissioners meeting on July 21, 2014. The public hearing is for the expenditure of funds on the incubator. It is \$400 dollars for the handicapped ramp and several other things. These are issues from the inspections office. With my arrival on the scene this morning, I had a notice from the Avery County Inspections Department that due to code violations that the director of inspections had placed signs on the door that no one could enter until the ADA issues were addressed. Tim Greene, Finance Officer, cannot release money until the public hearing has been accomplished. The bottom line due to ADA noncompliance the public cannot use that building. It is my understanding that the staff can enter it which is the economic development director. Without a doubt there are some ADA code issues that need to be addressed. Before we can address those, we need to have the public hearing and then give the finance officer the go ahead to approve the purchase orders. There are a lot of things on the list that have been addressed. For example, the fire suppression system which is an important element; I asked our Fire Marshal and he said to the best of his knowledge it had been put back in service. He went back this morning and looked at it and he said it was back in service." Mr. Griffith asked "Is he the one that certifies the fire suppression system?" The County Manager stated "it is my understanding but I stand to be corrected." Chairman Poteat stated "Irregardless this does necessitate a public hearing that can occur no earlier than 2 weeks from today." Mr. Wiseman stated "the public hearing has been advertised for the next regular scheduled meeting of the Board of Commissioners which will be July 21, 2014. These are legal issues that I don't feel comfortable discussing. I don't trust my own judgment on this. We have lessees that have paid rent and are utilizing those spaces and now they go over there this morning and doors are locked because it is worded no public access. I was racking my brain until I read this letter the third time as to where we could relocate our staff until these issues were addressed but that is not an issue the way I interpret this letter. The AC Pride project will only be allowed to have construction personnel or Avery County personnel which are working on the project or connected to the project. We will not have to relocate that office space. For the time being there is no public access. It is not business as usual. One thing that I discussed with Michaelle earlier today if there were other extraneous funds that could be accessed, not governmental or public funds could we use those funds to pour that ramp and whatever else and her answer was that it would appear you could." Chairman Poteat stated "there is a remote possibility that it could be reopened to the public for public access prior to two weeks today but it looks like more than likely it could not be reopened until the public hearing." Robert Wiseman stated "I stand to be corrected but if it takes us until the 21<sup>st</sup> to approve the release of the funds so that purchase orders can be issued you still have a couple of weeks at best to actually do the work." Glenn Johnson said "in the meantime you have businesses in there that cannot access their businesses."

Reo Griffith stated "we are going to make this letter a matter of public record here in a few seconds. We have beat this horse and beat this horse and in a few minutes I am going to put a motion on the floor to stop this mess. More money, more money and if you research the minutes that are online I have questioned this project since December of 2012, read the minutes. I have asked for inspection reports, asked if everything was in compliance. We are good to go, good to go, everything is in compliance. This letter comes down today that we are not even in compliance with our own inspections department but yet we have people leased over there. In our lease with Bear Realty, Highland Pro Clean, on page 18 of the lease it will read we can give the lessees 30 days to vacate the property, shut the incubator down and decide what is going to go on with the building but no we are going to have a public hearing to spend more money on this project. There are 10 bullets here. The first one is handrails at the front entrance

ramp. I thought we had already paid somebody to fix these ramps at the entrance. I thought we had public hearings on these and paid out. " Tim Greene said "we have paid out some things."

Reo Griffith read a letter from Tommy Burleson, Avery County Inspections Department:

Attn: Robert Wiseman, County Manager

Re: AC Pride Project/Avery County Building Permit #9673, Inspections Report July 2, 2014 and "Temporary Certificate of Occupancy" expires July 4, 2014. The North Carolina General Statutes 143-A-363 (Certificate of Compliance).

Dear Mr. Wiseman,

I have enclosed my latest inspection report from July 2, 2014 and have itemized the North Carolina Building Code Violations of which still need to be addressed in order For the Avery County Building Inspections Department to issue the "AC PRIDE" project, Permit #9673 a final or permanent "Certificate of Occupancy" per NCGS 153A-363.

Items (violations) that have to be addressed are as follows:

- Handrails at front entrance ramp (main entrance) must have an extension (12") at the bottom portion of the handrail. (ICC/ANSI A117.1 Ch. 505.10.1)
- ADA toilets (men & women's) require ADA handles and locks on the individual Handicap toilet stalls (ICC/ANSI A 117.1 Ch. 604.9.3)
- Have fire suppression system re-certified or receipt from service company and Statement that the system is working per the design. (NFPA-13)
- Exit signage and emergency lighting at the two (2) ADA exits from gym area. (NCIBC Sec. 1006)
- Handicap Parking designated at main entrance of building; signage is up but parking Space has not been marked. (ICC/ANSI A117-1, Ch.502.2 & 502.3)
- The curb transition from the ADA accessible parking space to the accessible ramp (main entrance) is required to meet ADA Standard, (ICC/ANSI a117.1 406: Curb ramps)
- Draft-Stopping/Fire-Stopping above the electrical panel. (NEC ART; 300.21)
- Label all of the electrical panel branch circuits. (NEC ART; 210.5)
- Exit door landing and ramp into the courtyard area needs to meet ADA Standards. (ICC/ANSI A117.1 Ch.405, ramps and Ch. 405.7, landings)
- Exit ramp at gym side door (ADA)hand rails need to come in compliance (picket 4" Spacing and a 2" bottom crutch rail" with ICC/ANSI A117.1 Ch.505-handrails.

Mr. Wiseman, as I stated before, this is the current list of building code violations which have to be addressed before the "Certificate of Occupancy" can be issued. However, the other primary issue of this report is to notify you that the "Temporary Certificate of Occupancy" expires on July 4, 2014 per NCGS 153A-363. A "Temporary Certificate of Occupancy" may be issued for a stated period and specific portions of the building Under this NCGS provision. The time period upon expiration (July 4, 2014) for permit #9673 will no longer allow the public to access the building. The AC PRIDE project will only be allowed to have construction personnel or Avery County personnel which are Working on the project or connected to the project.

The Avery County Building Inspections Department will be posting signage that will prohibit any and all public access to the building until the construction project has been completed and a "Certificate of Occupancy" is issued by this department, per NC GS 153A-363. If there are any questions concerning this report, please contact me at the Avery County Building Inspections Department."

Reo Griffith stated " I say again we need to shut the project down. It is going to be shut down in December. Our lease says we can give the lessees 30 days termination. Mr. Wiseman, that is not \$400 worth of stuff there. Concerning the same project under GS158-7.1 when did we have a public hearing to go into business at the economic development project with a Pat Faye Harris. I encourage anybody and

everybody to Google Mountaintop Promotions that was set up over at the old school renting out property. She never appeared here to go into a lease agreement. There was a bunch of tents set up over the weekend. She was allowing that she had 200 sites to rent and with her math on this website she could have possibly made in excess of \$15,000 this weekend. Where is the taxpayer's share of this money at? When did we go into business with Pat Faye Harris and Mountaintop Promotions? We have not. At this time I am putting a motion on the floor to stop the AC PRIDE Project as of this date and when we do stop it to immediately notify the people that is leased they have 30 days to vacate the property."

**Motion died for lack of a second.**

Chairman Poteat stated "I appreciate what Reo has to say especially about Pat Faye Harris. A public hearing has been duly noticed for the 21<sup>st</sup> day of July and is in the works. Mr. Manager it is imperative that your office get a cost factor. To a layman it sounds more than \$400 or \$500. We need this cost for the public hearing. I think it will have a definite factor on the decision of this board. This is a very important issue that has been going on for a while. I am sure Reo will recant his motion. I would like to have a full board here so everyone can speak their piece. I would like through yourself or Mr. Gardella's office some answers to this Ms. Harris situation and the rental fees that apparently were collected. We need to know if it is going to be utilized in the future. Mr. Manager is to get these answers." Tim Greene stated "a number of groups have rented the grounds and I believe that is one of them." Reo Griffith stated "if that was the old Banner Elk School county property and we said we wanted to rent it to someone to have different things, we can do it but we are now under GS 158-7.1. That has been deemed an economic development project since September 2011. We can't just rent to Ms. Harris. Our legal counsel might say we can. It is an economic development project."

Glenn Johnson questioned "Has it not been past practice even for the last 3 years that all of these outside events including the Woolly Worm could occur; so we would now have to have a public hearing for the Woolly Worm festival? Has it not been past practice for events to occur on the grounds without the need for a public hearing over the past three years?"

Michealle Poore said "there was some pre-existing uses before it was an economic development project. It is my recollection that the green space is separate from the building as far as the economic development project. The farmer's market was a long term lease. I was not aware of Mountaintop Promotions but I have requested Mr. Gardella get a copy of any and all agreements of the one-time issues."

Chairman Poteat stated "I have been told that Mountaintop Promotions is supposed to have more than one event in a year and I would like this to be researched. "

Glenn Johnson stated "I keep hearing from Mr. Griffith and others that come December or January that this incubator is going to be shut down but until then Mr. Griffith and anyone else concerned what the majority of this Board decides is what will be done. The majority of this Board as it exists now is still in charge as far as making decisions for Avery County. You folks can do whatever the heck you want to do come December. We are answering to the people of Avery County right now. I don't believe it is fair to sit here today after these lessees have spent their hard earned money and time and effort in making these spaces as beautiful as they are and added to the value of this property, I don't believe it is proper or fair to these people to say you are out of here in 30 days, pack up and leave because we have 3 viable businesses over there and we could have had 3 more and this place could have been paying for itself. Do whatever you want to do come December but the majority of this Board will do what the majority of this Board wants to do until then."

Robert Wiseman stated "the current situation dictates to me that those lessees cannot enter the premises that they have leased." Chairman Poteat stated that this is his understanding. This is not a good situation. This is the understanding of the majority of the Board and no public access is what it says and we will adhere to the law.

Glenn Johnson stated "a lot of these things have been accomplished. Most of these things are minimal and does not require expenditure of funds. You are not looking at a lot of expense and some has already been done apparently."

Reo Griffith stated "Ms. Poore, if at any time we didn't start having public hearings until I introduced 158-7.1 to the Board in April 2013 so I am asking you on your research please show me in writing where we excluded the green space from the school building."

**Finance Officer Report – Tim Greene**

Tim Greene, Finance Officer, stated that he was passing on some information from Gerald Johnson, Chairman of the Avery County Board of Elections. Back in the primary election, the Board of Elections had sent down a request for temporary help to pay them more than what we had budgeted and I told him that we would not do that. He is requesting that the Board of Elections be able to set the pay rate for the temporary workers in an amount commensurate with their duties and responsibilities in order that we can

retain their expertise gained from years of experience in election work. Mr. Greene stated that he had told Mr. Johnson that the County did not do any increases for any employees throughout the county and that included temporary or part-time employees. I told him I would pass all of this along to the Board.

Robert Wiseman, County Manager, advised that it would be out of line to give the Board of Elections autonomy to decide what employees are paid. The salaries or wages that the Board of Elections staff is being compensated with other counties around us there is a huge gulf. We have some of the best paid election employees in Western North Carolina. He said that his recommendation would be not to honor this request.

Glenn Johnson said no to the request. Reo Griffith said no to the request.

Chairman Poteat stated at this point we could not honor this request.

#### **County Attorney Report – Michaelle Poore**

Glenn Johnson questioned what the timeframe for the Grandfather Mountain Tax Appeal. Ms. Poore said the oral arguments had been completed at the Court of Appeals and there should be a decision in the next month or so.

#### **Closed Session**

**Motion by Glenn Johnson and second by Reo Griffith to go into Closed Session at 5:48 p.m. regarding Acquisition of Property G.S. 143-318.11 (a)(5). Invitees are board members, finance officer, county manager, Phillip Barrier, clerk. Motion unanimously approved with those in attendance (3-0).**

**Chairman Poteat declared the meeting to be back in Regular Session at 6:35 p.m. after a time of Closed session. During closed session, no vote was taken.**

#### **Approval of Minutes**

**Motion by Reo Griffith and second by Glenn Johnson to approve the Budget Workshop minutes for May 7, 2014; May 12, 2014; May 15, 2014 and Regular Session of May 19, 2014. Motion unanimously approved with those in attendance (3-0).**

#### **Agenda Consent Items**

Reo Griffith questioned what the \$7200 to cover shortage in salaries in the Sheriff's Office was. Tim Greene stated that was a budget amendment at the last meeting. Mr. Griffith stated that we spent extensive hours with the chief deputy, Dallas Pate and chief detective, Troy Cook and it was a gentleman's agreement that \$85,000 would way cover any and all extra expenses in salaries. There is no need in meeting and no need in having a budget if we come up short. Mr. Greene stated every month he sent Dallas Pate a report. Mr. Johnson stated that this was a "best guess figure". Mr. Greene stated that on a 24/7 department you have to budget extra money to take care of when someone was out sick. This is an estimate. This year was better than the prior two years.

Chairman Poteat stated that the Smoky Mountain Center contribution for Avery County needs to be adjusted in the future because there are twelve counties lower than Avery County. Mr. Johnson said that he shared the Chairman's concerns. No one can tell me when, where or by whom that each and every county came up with their maintenance of effort money.

**Adopted by consensus of the Board.**

#### **Upcoming Meetings**

The next Regular Board meeting will be July 21, 2014 at 3:30 p.m. with a Public Hearing scheduled for 4:00 p.m. regarding authorizing expenditure of funds for AC PRIDE.

#### **Adjourn**

**Motion by Glenn Johnson and second by Reo Griffith to adjourn this meeting at 6:50 p.m. Motion unanimous with those in attendance (3-0).**

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

ATTEST: \_\_\_\_\_  
Cindy Turbyfill, Clerk

