

**STATE OF NORTH CAROLINA  
COUNTY OF AVERY**

The Avery County Board of Commissioners met in a Special Meeting on Monday, February 21, 2011 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC. The purpose of this meeting was a Public Hearing regarding Avery County applying for Community Block Grant Funds for 2011 Housing Development NCHFA Tax Credit/RRP funding; a Public Hearing regarding proposed changes to the Subdivision Ordinance; discussion regarding Disposition of Banner Elk School; and County Manager Updates.

Members Present: Kenny Poteat, Chairman; Phyllis Forbes, Vice-Chair; Scott Heath; Martha Hicks; Glenn Johnson

**Call To Order**

Chairman Poteat called this meeting to order at 3:26 p.m.

Chairman Poteat led prayer.

**Public Hearing Regarding Avery County applying for CDBG Funds for 2011 Housing Development NCHFA Tax Credit/RRP Funding**

**Motion by Scott Heath and second by Martha Hicks to go out of Regular Session and into a time of Public Hearing at 3:30 p.m. concerning Avery County applying for CDBG funds for 2011 Housing Development NCHFA Tax Credit/RRP Funding. Motion unanimously approved with those in attendance (4-0).**

Chairman Poteat read aloud the notice regarding the Public Hearings that were advertised for two weeks. Chairman Poteat stated that if anyone would like to make a public comment regarding applying for the CDBG funds they must sign up on the sheet with the clerk.

Robert Wiseman, County Manager, stated that this Public Hearing was mandated by the applicable regulatory statutes that apply to tax credit housing. There is a tract of land that was formerly the Greene & Taylor Nursery property and that is the property that is in question. The developers have an option on that property subsequent to the approval of their financing. This is a 501C3 nonprofit. The building would be two stories because part of the property is in a flood plain. There are 38 units planned, 28 of which would be single resident and 10 would be double occupancy with 4 or 5 being handicapped accessible. The county involvement in this project would be limited to submitting an application to the Appalachian Regional Commission in an amount up to \$250,000. This would be 100% funding. Avery County would be the lead agent on that property. The paperwork that is necessary to start the process has already been submitted by Avery County. Chairman Poteat has already signed the letter of intent to apply for these funds. The expenditure of the funds from the counties perspective would be limited to utilities, sidewalks, water, sewer and would not be brick and mortar construction. The way that the determination is made on who is funded and who is not is based on a numerical system. With regard to the elderly housing, this would be 55 years of age and older and less than the median income. This is a perfect location with the senior center and social services located nearby. This is a developer that is using the tax credits.

Scott Heath asked if the county was only the lead agent on this project. Mr. Wiseman stated that is correct.

Glenn Johnson stated that these funds were very competitive throughout western North Carolina so the developer may or may not receive the funds.

There were no further public comments.

**Motion by Scott Heath and second by Glenn Johnson to go out of the Public Hearing regarding Avery County applying for Community Development Block Grant Funds for 2011 Housing Development NCHFA Tax Credit/RRP funding at 3:44 p.m. Motion unanimously approved by those in attendance (4-0).**

**County Manager Updates – Robert Wiseman**

Robert Wiseman, County Manager, stated that there is correspondence from the Director of the Senior Center. There needs to be a budget amendment to accept unexpected revenue. The Senior Center has received \$2400.00 that was not expected from the Home and Community Care Block Grant which is for in-home aides for the senior citizens.

**Motion by Glenn Johnson and second by Martha Hicks to recognize some additional revenue of \$2400.00 filtered through the Avery County Senior Center to help with in-home aide and allow the Chairman to sign said documents. Motion unanimous with those in attendance (4-0).**

**New River Mental Health**

Mr. Wiseman reported that each year Avery County prior to the start of the Fiscal Year enters into an agreement with mental health for them to provide certain services. This agreement would be \$53,626.00 in the 2011/2012 fiscal year; these are all state monies but in order to facilitate the process the Board will need to by motion enter into a contractual agreement with New River Mental Health based upon the fact that these funds will be provided. If the funds for whatever reason were not to be allocated to Avery County, then Avery County is not obligated to pay those monies.

**Motion by Martha Hicks and second by Glenn Johnson to allow Avery County Board of Commissioners to enter into a contractual agreement with New River Behavioral Healthcare with the budgetary monies in the amount of \$53,626.00 to be recognized. Motion unanimous with those in attendance (4-0).**

**Recess**

Chairman Poteat called for a brief recess.

Phyllis Forbes entered the meeting at 3:55 p.m.

Chairman Poteat called the meeting back in order after a brief recess.

**Public Hearing Regarding the Subdivision Ordinance**

**Motion by Martha Hicks and second by Glenn Johnson to go out of Regular Session and into a time of Public Hearing at 4:00 p.m. regarding proposed changes to the Subdivision Ordinance. Motion unanimously approved.**

Robert Wiseman, County Manager, explained that there had been a sequence of events that have led up to the public hearing regarding the Subdivision Ordinance. The planning board was approached by the Fire Association with recommended revisions to the Subdivision Ordinance as it relates to the accessibility of emergency vehicles. These revisions were reviewed, considered and revised and then was sent to the County Attorney for her scrutiny. There was a gentleman at the Division of Community Assistance named Glenn Rhodes who was reviewing the revisions to the Subdivision Ordinance and during this time he passed away and that got everything off track. Mr. Wiseman stated that Junior Sluder brought this to the Board's attention at a previous meeting and that has brought us to this point now.

Mike Lacey, Chairman of the Avery County Planning Board, advised that the proposed changes to the Subdivision Ordinance was mostly some "tweaking" of what was already there. There are some items in the current Subdivision Ordinance that the fire association felt was not being properly addressed and this revision is at the fire departments request and in conjunction with working with the members of the fire departments to come up with revisions of the Subdivision Ordinance. The gentlemen that were at the planning board meetings to help with the revisions were Jim Brooks, Jack Wiseman, Joe Shoupe, Junior Sluder and Tony Hunter. The changes that have been made are in greater support of fire and rescue and more stringent toward the property owner.

Michaelle Poore, County Attorney, stated that she had gone through the draft Ordinance and made a list of everything that was different from the existing Ordinance and sent a memorandum to the Board regarding these which the Board now has.

Chairman Poteat said that the public hearing must be held according to law with a change in an ordinance but this does not have to be adopted today until all the "tweaking" is completed.

Jim Brooks, member of Beech Mountain Fire Department, stated that the representatives from the Fire Association met 13 months in a row with the Planning Board regarding these proposed changes to the Subdivision Ordinance. Mr. Brooks advised that this is just not proposed changes for the fire services but also to protect the purchaser of real estate, protect the telephone company, power company, EMS, etc. Mr. Brooks stated that his opinion as a realtor is it is easier to sell real estate if it is better real estate and that is what is being done with this ordinance. Mr. Brooks gave an example regarding some of the changes. For example, the fire trucks are 96 inches wide and now because of emissions problems the government is allowing them to go to 100 inches and it was difficult with the road grades, curves and narrowness of some of the roads to maneuver the fire equipment. It is unfair for the taxpayer to have to buy a four wheel drive truck to go up a steep grade when the developer could go another way. Mr. Brooks also commented that there were some homes in this county that fire equipment could not get to.

Glenn Johnson questioned if this Subdivision Ordinance was stricter than other neighboring counties. Loretta Smith, Ordinance Administrator, stated that Avery County's Subdivision Ordinance is more stringent than Watauga or Mitchell.

Chairman Poteat stated that it was the recommendation of the County Attorney when the Board came out of the Public Hearing not to take any action today but to vote on the proposed changes at the March meeting.

**Motion by Phyllis Forbes and second by Martha Hicks to go out of a time of Public Hearing regarding the proposed changes to the Subdivision Ordinance at 4:26 p.m. and to go back into Regular Session. Motion unanimously approved.**

**Recess**

Chairman Poteat called for a brief recess.

Chairman Poteat stated that the Board was back in Regular Session after a brief recess.

**Disposition of Banner Elk School**

Michaelle Poore, County Attorney, stated that discussions began a couple of years back with the school board because the school board had determined Beech Mountain School would not be used and there was an agreement entered in with the school board for exchanging of Beech Mountain School and Banner Elk School. Title to the

existing Banner Elk School has not yet been transferred to the County because the agreement provided that the title would be transferred once it was no longer used for school purposes. There will be a point in time where the title for the old school will be exchanged for the title of the new Banner Elk School. The current timeline for this is the first of July.

Chairman Poteat stated that he personally could see no greater use of the old Banner Elk School than remaining with the citizens of Banner Elk but that is not saying that it can be given away. Ms. Poore stated that part of the agreement with the school board is that those proceeds would be applied to the new school property.

Mr. Wiseman stated that there were official appraisals of this property. On August 26, 2004 Tennille and Associates, a certified appraiser, valued the almost 5 ½ acres and building at \$2,000,000 and given the real estate market at that time they prognosticated that by 2009 that property would be worth \$4,000,000. This appraisal was requested by the Board of Education. The next appraisal was requested by the Town of Banner on January 26, 2010 by Elliott & Co, Greensboro, NC and that appraisal was \$1,132,000. The third appraisal by Tennille and Associates was requested by the Board of Commissioners and was completed on December 6, 2010. This was appraised at market value being a vacant property at \$1,100,000 and then the appraiser deducted in their computations \$112,000 to demolish the school and that would knock it down to \$988,000.

Mr. Wiseman advised that he received a printout every week from the Tax Assessor's office as to the property that is sold and what it is valued at. The property that is selling is selling on the average 2% more than what it is on the County tax books for.

Phillip Barrier, Tax Assessor, advised that the Banner Elk School property with 5 ½ acres would be \$15.00 a square foot which would equate to \$4,713,000. This value is from January 1, 2010. That is \$1,126,000 for the building and \$3,587,000 for the land. This appraisal was done by a commercial appraiser who works in 26 different counties.

Chairman Poteat stated that we could keep getting appraisals until we got the one that we wanted but these are professional appraisals. Chairman Poteat advised that of the four appraisals, not including the inflated appraisal of the four, the average of the four is \$2,236,250 (average of the four appraisals).

Bill Beutell, citizen of Avery County, stated "I think it is erroneous to use an appraisal of property from 2004 in trying to figure out what the average was. I think you are on the right track by going on the current appraisals. In looking at disposing of the property, you are trying to build the Banner Elk School and I am not saying that the property should not be in Banner Elk's hands but I think they should pay fair market value and not get some large discount. The third thing is does the County have the authority to set the minimum amount that they would receive on a parcel of property." The County Attorney answered that with sealed bids the County can set requirements.

Ted Silver, Banner Elk resident, stated that "the best use of the property would be the greater community of all the residents of Avery County. The highest and best use for this property does not exist at this moment. There are no sales in the area that are similar to a public school use. The infrastructure does not exist to support a 5 1/2 acre commercial business in downtown Banner Elk at this point.

Rick Owen, Town Manager of Banner Elk, stated "I am here today representing the Town of Banner Elk as their Town Manager. The town is interested in preserving this building for its historic value. It is believed that the building could be used in many ways to benefit Banner Elk as a community and the county as a whole. The grounds are currently home to numerous community events; the best known the Woolly Worm Festival. The town would like to see these uses continue. This piece of property is the center piece of the town and has been for over 70 years. The town is showing its interest in maintaining the history of the county, vision of the town, the interest of the community and supporting the established businesses. There should be no illusion that the town has some hidden money tree that the town can fund the purchase of this property, however, we see an opportunity partnering with the nonprofit community group, ourselves and the county. The town is not asking to give this property away but the price tag you set can make it unattainable to the town. What is good for the town of Banner Elk, can certainly be good for Avery County."

Mr. Owen also stated "I am here as a member of the community and would like to speak from that viewpoint. I went to Banner Elk Elementary School some number of years ago and went to Lees McRae College. I was fortunate enough to find a job which allowed me to stay here after school and I am raising my son here. I want you to understand who I am as a member of the community. I live almost 10 miles away but consider it my community, my son goes to school there and I have family that lives there. I use the park, greenway, and businesses and attend events. Banner Elk is a part of me. I have watched the town grow over a number of years. Sometimes it takes a good scare to get you to look around and see what is there and that is what happened to me with the school. When I heard that it could be sold to the highest bidder and anything could happen to it that got my attention and I started asking questions. Both sides, county and town, have had 100 years to build a relationship good or bad but that doesn't mean we should overlook opportunities to improve when given the chance and I see this as one of those opportunities. I hope the county will see this opportunity also and consider what this property means to the community and ask a reasonable price."

Mr. Owen asked the Board to please consider the zoning of the property at this time. It is zoned educational/medical. The old hospital is zoned multiuse which would be appealing to a developer and the price on that property is considerably less than the tax value that is assessed on the school property.

D.C. Smith, Banner Elk Resident, stated “Banner Elk is my home. I really hate to see the property go outside of the community. I know the county wants to get the most for their dollar. With all the other school properties that have been disposed of Riverside, Minneapolis, Elk Park and Beech Mountain, I would like to see it be fair to my part of the county. I would like to see some consistency. Beech Mountain School was in rather good shape, Banner Elk is not.

Commissioner Heath questioned if the County wanted to advertise for bids or offers can that happen before a clear deed or does that have to happen after. Ms. Poore stated there are several ways that the county can look at disposing of the property. There is sealed bid, negotiated offer with upset bid procedure, public auction and under certain circumstances private sells can be used, for example, a nonprofit entity. For some of these procedures, the Board has to approve the procedure by a resolution before that procedure is followed for disposition of the property. The county would need to have title to the property to convey it. Commissioner Heath asked the County Attorney to send a memo to the Board with all the options to consider.

Glenn Johnson said that he did not know what this property was worth but that each month the Board gets a printout from the Tax Assessor’s Office that shows the sales week by week and it shows that the number of sales are down but the sales that are occurring in Avery County one week is slightly lower than valuation and the next week slightly higher. Someone stated that there was no comparison because no schools have been sold but it will cease to be a school and will become commercial property. The best use of the property is for Banner Elk to have it. There is no comparison with Beech Mountain School, Riverside School with this property being in the middle of Banner Elk. Mr. Johnson stated that he hoped that the Board could come to some conclusion where Banner Elk can purchase this property but he must represent all of Avery County.

Les Broussard, Banner Elk resident stated “Banner Elk is one of the most desirable location destination areas and that it would be beneficial for the county and community to get on the “wagon” with Banner Elk.”

Ted Silver, Banner Elk Resident, said that the property was zoned educational and to get the highest commercial value, this would require someone to get a zoning change to match the commercial price.

Scott Heath stated “this is a very dynamic situation as we are all aware. Let me address the price. When you look at the two appraisals and get two separate appraisal companies that are almost identical I think that adds validity to that appraisal. The other side to that is that we have a Tax Assessor who is incredibly accurate. This shows to me that there is a wide variable. We have zoning issues and an economic issue there. Absolutely no one has any idea what this property will sell for. It is what we can get for the property. Clearly we cannot make a decision on the price until we see what someone truly might pay for. We need to get set up with the bid process or offer process and we have to sit it out there long enough for everyone to have a chance to bid on it. One issue is how long we are going to sit on this property. The Friends of Historical Banner Elk School came before the Board a few months ago. This is a nonprofit entity that would own the property and whose main objective is to develop tourism for the community. This, in my opinion, would be the highest and best use of this property because there would be monetary value for the county plus it would be in the best interest of the county and the town. In the end we need to look at the procedures and at these different options but certainly we do have a “bird in hand” with the Friends of Historical Banner Elk. We need to look at the facts and also we need to look what is in the best interest of the town and community.”

**Adjourn**

**Motion by Scott Heath and second by Glenn Johnson to adjourn this meeting at 5:45 p.m. Motion unanimously approved.**

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

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