

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Tuesday, September 3, 2019 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC.

Members Present: Martha Hicks, Chair; Blake Vance, Vice-Chair; Dennis Aldridge; Tim Phillips; Wood Hall Young, Jr.

Members Absent: None

Call To Order

Chair Hicks called the meeting to order at 3:30 p.m.

Chair Hicks led prayer.

Blake Vance led the Pledge of Allegiance.

Proclamations and Awards

**RESOLUTION CELEBRATING THE CELEBRATION OF 100TH ANNIVERSARY OF
THE PASSAGE OF THE 19TH AMENDMENT TO THE CONSTITUTION AND THE
FOUNDING OF THE LEAGUE OF WOMEN VOTERS BY
AVERY COUNTY COMMISSIONERS**

WHEREAS, an organized movement to enfranchise women began in July, 1848, at a convention in Seneca Falls, NY; and

WHEREAS, through the efforts of brave and courageous women referred to as suffragists who sacrificed family, their personal life and their financial resources for over seventy years to gain equal rights for women, especially the right to vote; and

WHEREAS, women and men, black and white, supported the women's suffrage movement for women to gain the constitutional right of having a voice in making the laws that govern them; and

WHEREAS, the woman's suffrage movement led to the passage of the 19th Amendment to the constitution of the United States in 1919; with ratification by the states by the summer of 1920; and

WHEREAS, the National Woman's Suffrage Association dissolved in 1920 to create the League of Women Voters of the US to register voters and educate all voters, and

WHEREAS, the League of Women Voters of North Carolina was launched on October 7, 1920, on the steps of the Guilford County Courthouse by Gertrude Weil, a politically active and tireless young woman from Goldsboro, NC; and

WHEREAS, More than 120,000 women were registered to vote in North Carolina by 1920; and

WHEREAS, women today constitute a majority vote in our state and the US and are running for office in higher numbers and more active in the election process than ever before in history;

NOW, THEREFORE, BE IT RESOLVED that 100th anniversary of women gaining the right to vote and the founding of the League of Women Voters in the United States and in North Carolina, is recognized for the impact these historic accomplishments have on citizen engagement and the civic life of the community, the state, and the nation.

Motion by Wood Hall Young, Jr. and second by Blake Vance to Adopt the Resolution Celebrating the Celebration of 100th Anniversary of the Passage of the 19th Amendment to the Constitution and the Founding of the League of Women Voters by Avery County Commissioners. Motion unanimously approved (5-0).

Celebrate County Government

Phillip Barrier, Jr., County Manager, recognized the members of the Avery County Airport Authority for their service to Avery County. The members are: Sam Calvert, Sam Ray, Dempsey Clark; Dean Harris, and Jack Riley.

Public Comment

Chair Hicks commented that the Commissioners had been to the NCACC Conference in Guilford County where they participated in different workshops that were very informative.

Board Appointments

Avery Fire Commission

House Bill 673 established the Avery County Fire Commission. The Fire Commission consists of a five member board; two of the board members shall be consumers appointed by the Avery County Board of Commissioners; two of the board members shall be firemen approved by the Avery County Fire Association and appointed by the Avery County Board of Commissioners; the other four sitting members of the Commission shall choose the remaining member.

Scott Heath has expressed his willingness to serve on the Fire Commission. His application has been reviewed.

Motion by Wood Hall Young, Jr. and second by Tim Phillips to appoint Scott Heath to the Avery Fire Commission. Motion unanimously approved (5-0).

Mark Taylor is the Fire Association Appointee for the Fire Commission.

Motion by Wood Hall Young, Jr. and second by Tim Phillips to appoint Mark Taylor as the Fire Association Representative for the Avery Fire Commission. Motion unanimously approved (5-0).

High Country Workforce Development Board

Edward Hinson has expressed his desire to be reappointed to the High Country Workforce Development Board.

Motion by Tim Phillips and second by Blake Vance to appoint Edward Hinson to the High Country Workforce Development Board. Motion unanimously approved (5-0).

Review of Applicants

Review of Applicants for the Northwestern Regional Housing Authority; Jury Commission Member; Morrison Library Board and AMY Regional Board.

US Forest Service Presentation – Richard Thornburgh, District Ranger

Richard Thornburgh, District Ranger presented a power point presentation regarding waterfall safety and improvements at Elk Falls; the Overmountain Trail Shelter status and the Forest Plan Revision status update.

Mr. Thornburgh stated that in the past few years there had been quite a few fatalities and injuries at Elk River Falls. In the past year we have made further efforts to improve the information regarding the dangers at Elk River Falls. Mr. Thornburg explained that there were new signs at the trailhead of the Elk River Falls warning of the dangers of jumping off the falls; there were warning signs along the trails and warning signs at the top of the waterfalls.

Mr. Thornburgh also explained that the Overmountain Trail Shelter at Roaring Creek had structural damage and because of the risk this shelter would be closed.

Avery Morrison Library Board Bylaws – Amber Westall-Briggs

Amber Westall-Briggs requested that the bylaws for the Avery Morrison Library Board be revised. Currently there is a six member board and the Morrison Library Board would like to change the wording to say a minimum of six board members. Many of the board members want to serve locally but do not want to serve on the regional board and some of the members have already served their two terms on the regional board so it is making it hard to fill all the positions on the AMY Regional board.

Wood Hall Young, Jr. questioned was there a maximum number of board members. Ms. Westall-Briggs said that it could be changed to have a maximum number.

There was discussion about how many members that the Morrison Library Board would need. Dennis Aldridge expressed concern about having an open ended membership.

Michaëlle Poore, County Attorney, stated that it would be better if Ms. Westall-Briggs went back to the Morrison Library Board to see how many board members they feel that they need.

Motion by Dennis Aldridge and second by Blake Vance to table the Avery Morrison Library Board Bylaws until the October 7, 2019 Regular Meeting. Motion unanimously approved (5-0).

Recess

Chair Hicks called for a brief recess.

Chair Hicks declared the meeting to be back in session after a brief recess.

Avery County Transportation System Safety Plan Amendments

The System Safety Plan is a compilation of safety policies and procedures which are followed to optimize a safe environment for those associated with Avery County Transportation and to be in compliance with the FTA regulations and the North Carolina Department of Transportation. A new System Safety Plan template was used to amend the System Safety Plan. The amended plan must be approved by the Board of Commissioners.

Motion by Blake Vance and second by Wood Hall Young, Jr. to adopt the amendments to the Avery County Transportation System Safety Plan. Motion unanimously approved (5-0).

Tax Administrator Report – Bruce Daniels

The Total Tax Collections for the month of August 2019 is \$3,904,565.00.

Motion by Wood Hall Young, Jr. and second by Blake Vance to approve the Tax Collections for the month of August 2019 as presented. Motion unanimously approved (5-0).

Regular Releases

The Regular Releases for the month of August 2019 is \$1312.72.

Motion by Wood Hall Young, Jr. and second by Blake Vance to approve the Regular Releases for the month of August 2019 as presented. Motion unanimously approved (5-0).

Boomerang Design Update – Rob Johnson

Rob Johnson, Boomerang Design, explained that Boomerang had been working on the High School Project for the past year and at some point the electrical engineers did advise me that the electrical service and central plant needed to be replaced. We gave that to Dr. Taylor in December with the associated scope of work and on January 3rd Dr. Taylor gave us the notice to proceed. On January 15th, 2019 at the joint meeting we did an update as we were going to the DD cost estimate from the previous schematic design estimate. On February 22nd thru March 6th we did prequalification of bidders.

We did a bid opening on the 23rd. On May 4th we recommended Branch Builds to be awarded the bid.

Mr. Johnson explained that he was the one that had built out the spread sheet and that the spread sheet did emphatically state the full project total but when he edited the spread sheet he did not pull over the engineering fees.

Dennis Aldridge stated that the Board had looked over these countless times. I understood that all of the engineering fees were in the base bid above. Mr. Johnson stated that the engineers did not bill them until later so that is why they had not caught this before until the finance officer and county manager called about this.

Wood Hall Young, Jr. questioned if this was their mistake. Mr. Johnson said that it was his mistake completely.

Dennis Aldridge stated that we prepared financing documents based on the \$20,346,039.00. Chair Hicks stated that we had already put in for a loan.

Tim Greene stated that we are going to have to come up with another \$104,000 or have it come out of contingency. At the next meeting if it was decided that this was coming out of contingency I would go ahead and revise the project ordinance and move the money from construction into architect fees.

Wood Hall Young, Jr. stated that he hated to pay for someone else's mistake. We have saddled the taxpayers with a \$20,000,000 debt. You are talking about \$100,000. I know it has to be done but I don't like these kind of surprises and that is what we have had with this project.

Blake Vance stated that it takes a lot to admit to a mistake.

Tim Phillips stated that he would rather it come out of contingency so the project can proceed.

Chair Hicks questioned what the soil nailing was. Mr. Johnson stated that the soil in the vertical wall was unstable and soil nailing has to be done for the retaining wall. We knew there was going to be bad stuff somewhere but you never know. Chair Hicks questioned why did we take soil samples if it does not show up. We did discuss in the school board meeting about the soil. Mr. Johnson said that even if you test many points even when you excavate down you run into problems.

Dennis Aldridge said going back to our initial discussion from my standpoint this coming out of contingency is not a contingency item in the way that I look at contingency. If this is inevitable, I do not think we should increase the total project amount and if contingency covers it that's fine but I don't think the project needs to be increased. Wood Hall Young, Jr. said you know I agree with that. Mr. Aldridge said I don't want this to come back to haunt us eighteen months from now.

Mr. Greene said he would bring the revised project ordinance to amend at the next meeting.

Michaëlle Poore, County Attorney said there is no action needed from the board at this point.

Blake Vance stated that the Board needed to be meeting regularly with the Board of Education during this project.

Tim Phillips said he did not want to cut back anything that the children might need.

Dennis Aldridge said there may well be room within the contingency to cover everything.

Ms. Poore asked if the Board wanted to make a motion to move the money. Blake Vance said can it just be a consensus because you can't move it until the ordinance is amended. Ms. Poore stated that is correct which would be at the next meeting.

Mr. Aldridge said he wanted to make sure that the total project dollars did not change. This would move us forward at this point. I am still sticking with my guns with not increasing the total project dollars.

Ms. Poore stated that you will need to have a motion at the next meeting to approve the amended project ordinance.

Consensus by the Board for the finance officer to bring the amended project ordinance to the September 16, 2019 meeting with the project total still the same with the project proceeding.

Community Room Update

Mr. Johnson stated that Boomerang is working on two different arrangements on the community room and would be bringing them back to the Board soon. There are four memorandum of understandings that will need Board approval. One of the MOU's is for Kyle Smith who is the consultant for the acoustics. This MOU is for \$7200.00.

There was discussion regarding the need for an acoustic consultant. Mr. Aldridge stated that he thought any group that would come to do this type of work would want to do their own design. I am not sure there needs to be an acoustical engineer on this project. Mr. Johnson stated that the consultant had the ability to evaluate everything to get the best acoustics. Mr. Vance stated that the room needed to be built for the music. You want somebody that knows what they are doing. This is a different scope of work. Pierre Henwood, Boomerang architect, stated that he is not going to be advising on just the speakers but the finishes, light fixtures, walls, etc.

Michaëlle Poore, County Attorney, stated that these MOU's had not been reviewed by her or by the Board and that they should be reviewed before any action was taken.

Motion by Dennis Aldridge and second by Wood Hall Young, Jr. to table all four Memorandum of Understandings until the next meeting. Motion unanimously approved (5-0).

County Manager Updates-Phillip Barrier

Buildings and Grounds

There has been some major water damage with the flat roofs on both porches of the Administration building. We have taken bids and Randy Burleson Construction has given us the best bid to replace the roofs and repair the water damage. The bid was \$13,500.00. He will be starting this as soon as we get approval.

Motion by Blake Vance and second by Wood Hall Young, Jr. for Randy Burleson Construction to do the renovation at the Administration building. Motion unanimously approved (5-0).

Resolution Declaring Certain Real Property Surplus & Authorizing Its Sale by Sealed Bid

WHEREAS, Avery County owns certain real property which it has acquired by virtue of certain tax foreclosures which has previously been designated as surplus property; and **WHEREAS**, such property is more particularly described as follows:

1. 1941-17-10-7821-00000 Buckeye Creek Rd Deed Book 482, Page 0786
2. 1826-17-10-0538-00000 Squirrel Hollow Rd Deed Book 465, Page 1208

WHEREAS, North Carolina General Statute §160A-268 permits the County to sell real property by advertisement and sealed bid;

NOW, THEREFORE, be it RESOLVED that the Avery County Board of Commissioners meeting in regular session on the 3rd day of September 2019 Resolves that the Board of Commissioners hereby authorizes the sale of the following described tracks of land by sealed bid:

- 1941-17-10-7821-00000 Buckeye Creek Rd Deed Book 482, Page 0786
1826-17-10-0538-00000 Squirrel Hollow Rd Deed Book 465, Page 1208

3. The County will accept sealed bids for the property until 3:00 pm on the ____ day of _____, 2019. Bids shall be delivered to the office of the County Manager, County Administrative Building, 175 Linville Street, Newland, NC 28657.
4. On the ____ day of _____, 2019 all bids received shall be opened in public and the amount of each bid recorded. The record of bids shall be reported to the Board of Commissioners at their next regularly scheduled meeting after the opening of bids.
5. The Board of Commissioners will determine the highest responsible bidder for the property and will award the bid at its regular meeting in _____ 2019. Bids will remain open and subject to acceptance until the Board of Commissioners award the bid.

6. To be a responsible bidder, a bidder must be current on payment of all property tax owed to the County.
7. To be responsible, a bid must be accompanied by a bid deposit of 5% of the amount of the bid. The bid deposit may take the form of Cash, Cashier's Check, Certified Check or a Surety Bond. The deposit of the bidder to whom the award is made will be held until the sale of the property is closed; if that bidder refuses at any time to close the sale, the deposit will be forfeited to the County. The deposits of other bidders will be returned at the time the Board of Commissioners awards the property to the highest responsible bidder.
8. The County reserves the right to withdraw the property from sale at any time and the right to reject any and all bids.

Motion by Wood Hall Young, Jr. and second by Tim Phillips to adopt the Resolution Declaring Certain Real Property Surplus & Authorizing Its Sale by Sealed Bid. Motion unanimously approved (5-0).

Resolution in Support of Funding to Meet the Mental Intellectual/Dev. Disabilities and Substance Use Disorder Service Needs of the Citizens of Avery County

WHEREAS, Avery County recognizes that, with appropriate services and supports, individuals with mental health and substance use disorders can achieve recovery; and

WHEREAS, Avery County further recognizes that individuals with intellectual/developmental disabilities ("IDD") can live productive lives in the homes and communities of their choice; and

WHEREAS, the amount of resources needed for mental health, substance use disorder and IDD services and supports is increasing due to North Carolina's increasing population; and

WHEREAS, Avery County is a member of Vaya Health, a public Local Management Entity/ Managed Care Organization ("LME/MCO") responsible for management and oversight of publicly-funded mental health, substance use disorder and IDD services for over 270,000 Medicaid-covered and uninsured individuals across twenty-two (22) western North Carolina counties (the "Catchment Area"); and

WHEREAS, consistent with the goals of the 1915(b)/(c) Medicaid Waiver expansion, the Vaya Health Board of Directors developed a comprehensive reinvestment plan beginning in SFY 2015-16 as part of a focused effort to reduce unnecessary emergency department admissions, divert people

from incarceration and institutionalization, combat the opioid epidemic, and support county Departments of Social Services; and

WHEREAS, Vaya has already reinvested \$18.5 million of its Medicaid savings in a broad array of initiatives designed to directly address the needs of the citizens of Avery County, including but not limited to expanding Facility Based Crisis and Behavioral Health Urgent Care services, implementing an innovative evidenced-based service to support children aging out of the foster care system, distributing opioid overdose reversal kits, increasing provider rates and expanding Medication Assisted Treatment; and

WHEREAS, State funding for North Carolina's behavioral healthcare system has been inconsistent and inadequate for more than 17 years since mental health reform legislation was passed by the North Carolina General Assembly in 2001; and

WHEREAS, the North Carolina General Assembly has reduced State funding for behavioral health services (known as single-stream funding) by more than \$458 million statewide over the past four years, including more than \$48 million in cuts to single-stream funding to Vaya alone, while requiring Vaya and other LME/MCOs to continue offering the same level of State-funded services as before such reductions; and

WHEREAS, if the proposed \$9 million single-stream reduction in the pending State budget is passed into law, the General Assembly will have cut \$57 million in single-stream funding from Vaya; and

WHEREAS, despite these significant single-stream funding reductions, Vaya has continued serving the uninsured and underinsured using remaining State funds and Medicaid savings that were intended to be used for implementing its reinvestment plan; and

WHEREAS, such continued reductions have forced Vaya to eliminate, or halt work on, items from its reinvestment plan; and

WHEREAS, Avery County has continued to fund Vaya with County dollars to supplement services to our residents, but we are concerned that additional reductions in behavioral health funding by the State may increase the need for the local allocation and place additional strain on local hospitals,

Emergency Medical Services, jails, housing, and other social service resources.

NOW, THEREFORE, BE IT RESOLVED, that we, the Avery County Board of Commissioners, do hereby request that the North Carolina General Assembly:

- Stop cutting Vaya Health's State single-stream funding so that such funds can be utilized to strengthen access to healthcare services for the mental health, intellectual/ developmental disabilities, and substance use disorder needs of uninsured and underinsured Avery County citizens; and
- Allow Vaya Health to build up its Medicaid savings so that Vaya can reinvest in services and supports for our communities rather than mandating that such funds be used to replace reduced State funding.

Motion by Blake Vance and second by Dennis Aldridge to Adopt the Resolution in Support of Funding to Meet the Mental Intellectual/Dev. Disabilities and Substance Use Disorder Service needs of the Citizens of Avery County. Motion unanimously approved (5-0).

Memorandum of Transportation Agreement for Involuntary Commitments

NC Senate Bill 630 mandates that each county has a county transportation plan for involuntary commitments. VAYA has written the plan. Michaelle Poore, County Attorney and Sheriff Kevin Frye have worked on this plan also. This plan will be going to each of the towns that have a police department for approval by the towns also.

THIS MEMORANDUM OF TRANSPORTATION AGREEMENT ("Transportation Agreement") is made and entered effective as of 1 October, 2019 ("Effective Date"), among the law enforcement agencies listed below and the Avery County Sheriff's Office ("Sheriff's Office") (collectively, "the Parties", individually "Party").

WHEREAS, North Carolina General Statutes (N.C.G.S.) §122C-251, Custody and Transportation for Involuntary Commitments, was amended and is effective October 1, 2019; and

WHEREAS, N.C.G.S. §122-251(g) requires the governing body of a city or county adopt a plan known as an "involuntary commitment transportation agreement" or "transportation agreement" for the custody and transportation of respondents in involuntary commitment proceedings; and

WHEREAS, once adopted, the Transportation Agreement must be submitted to: The Magistrates in Avery County; the Avery County Clerk of Court; the Division of Mental Health Development Disabilities, and Substance Abuses Services; and the Local Management Entity-Managed Care Organization (“LME/MCO”) that serves Avery County municipalities.

NOW THEREFORE, for and in consideration of mutual promises to each other as herein after set forth, the Parties mutually agree as follows;

1. After an Avery County Magistrate issues an involuntary commitment order (“IVC Order”) and the Magistrate contacts the local law enforcement agency in the jurisdiction where the respondent resides or is physically located, an officer or deputy with the jurisdiction shall retrieve the IVC Order from the Magistrate.
 - a. If the respondent is a resident of the municipality or is physically taken into custody in the municipal limits, the municipality is responsible for transportation of the respondent including admission and discharge.
 - b. If the respondent is a resident of the county outside any municipal limit or is physically taken into custody outside municipal limits, the county is responsible for transportation of the respondent including admission and discharge.
2. The officer or deputy shall attempt to locate the respondent at the address provided on the IVC Order or where the magistrate believes the subject is physically located.
3. Upon location, the officer or deputy shall take respondent into custody and transport respondent to Cannon Memorial Hospital or other approved facility. After the facility has completed its examination of respondent, and if further care is required, the facility will locate a facility for respondent’s future care.
4. The Sheriff’s Office shall respond as needed to the initial facility to transport the respondent to any facility, identified by the initial facility, where respondent has been placed by the initial facility.
5. Upon completion of the initial evaluation, if the facility determines respondent is not in need of further treatment, an officer or deputy with the agency that took

respondent into custody shall return respondent to the address in the IVC Order or allow for other transportation arrangements of respondent be made.

6. Each party to this Transportation Agreement agrees it is responsible for its own acts and/or omissions and those of its officials, employees, representative and agents in carrying out the terms of this Transportation Agreement and the results thereof to the extent authorization by law and shall not be responsible for the acts and/or omissions of any other Party and the results thereof.
7. It is understood and agreed that each Party's liability may be limited by the provisions or other immunity law applicable to each law enforcement agency. Parties understand and agree that each Party has not waived its rights, immunities and protections provided by law. Nothing contained in this Transportation Agreement shall waive or amend, nor shall be construed to waive or amend any defense or immunity that either Party, their respective officials and employees, has or may have.
8. This Transportation agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind among the Parties. Moreover, the rights and the obligations of the Parties under this Transportation Agreement will be only those expressly set forth in this Transportation Agreement.
9. This Agreement may be amended by written Agreement of the Parties.
10. Each term, condition, or covenant herein is subject to and shall be construed in accordance with the North Carolina law and any applicable federal law.
11. This Agreement may be executed in two (2) or more counterparts each of which will be deemed to be an original.

IN WITNESS WHEREOF, the law enforcement agencies and the Sheriff's Office, acting under authority of their respective governing bodies, have caused this Memorandum of Transportation Agreement to be duly executed as set forth below.

Motion by Wood Hall Young, Jr. and second by Tim Phillips to Adopt the Memorandum of Transportation Agreement for Involuntary Commitments. Motion unanimously approved (5-0).

Finance Officer Report – Tim Greene

Budget Amendment

The Department of Social Services has received an insurance reimbursement for the 2017 Subaru Forester.

Motion by Blake Vance and second by Wood Hall Young, Jr. to adopt a budget amendment in the amount of \$3,172.00 with a debit of \$3,172.00 to Auto Supplies (106100.3100) and a credit of \$3,172.00 to Insurance Reimbursements (103340.0000). Motion unanimously approved (5-0).

Budget Amendment

The EMS department has received a reimbursement for labor and taxes for the 2019 Grandfather Mountain Highland Games.

Motion by Wood Hall Young, Jr. and second by Tim Phillips to adopt a budget amendment in the amount of \$4,103.00 with a debit of \$3,605.00 to Salaries— EMT's (105300.0220); debit of \$271.00 to FICA (105300.0500); debit of \$161.00 to Retirement (105300.0600); debit of \$66.00 to 401K Retirement (105300.0800) and a credit of \$4,103.00 to Emergency Medical Service (103610.0000). Motion unanimously approved (5-0).

County Attorney Report – Michaele Poore

Nothing to report that has not already been addressed.

Approval of Minutes

Motion by Tim Phillips and second by Dennis Aldridge to approve the May 16, 2019 Budget Workshop Minutes and July 11, 2019 Special Meeting Minutes. Motion unanimously approved (5-0).

Agenda Consent Items

Adopted by Consensus of the Board.

Chair Hicks stated that she was on the MAY Coalition Board but that it was interfering with another Board that she was on and she was going to have to give up the MAY Coalition Board. She asked if any of the commissioners would like to volunteer to be on that Board.

Dennis Aldridge volunteered to be on the MAY Coalition Board.

Adjourn

Chair Hicks declared the meeting to be adjourned at 5:49 p.m.

**Martha Hicks, Chair
Avery County Board of Commissioners**

ATTEST: _____
Cindy Turbyfill, Clerk