

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, April 1, 2013 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC 28657.

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

Members Absent: None

Call To Order

Chairman Poteat called the meeting to order at 3:32 p.m.

Chairman Poteat stated if you would like to speak to an agenda item you must sign up with the clerk otherwise there would be a time of public comment.

Reo Griffith led prayer.

Robert Wiseman, County Manager, thanked everyone for their support during his time of illness.

Public Comment

Daryl Smith, Chairman of the Avery Fire Commission, stated that a few months ago he had come before the Board to let them know that Banner Elk Fire Department was having trouble with a truck. A truck was found in Galveston, Texas and purchased so the issue has been rectified. He also said that the other thing was a membership problem in Elk Park with the rescue squad. If there are no members, there is not much anyone can do about it.

Larry Cuthbertson explained that the problem encountered at the rescue station in Elk Park is that there is not enough membership in that area. Linville Central has 58 members but all of the members are from the top of the three lane to the Altamont area. We have tried to acquire members from that area. We are going to run another open house in May to try to get membership. At the time that we met, there was going to be extra funding for the building and for running that area. We are covering the whole county now. We are getting some costs down there in fuel and keeping up the building so I wanted to make you aware of that. If we do not get 8-10 members out of that area come July, Linville Central will be coming back to the commissioners about closing that station down. This year we are going to be running about 700 calls from Linville Central. The average time on a call is about 3 hours so our members are putting about 8800 hours a year on rescue calls. I have asked the members to put out about 5000 hours a year in fundraisers. Every member I got I am requiring about 3 weeks of 40 hours a week for calls and fundraisers so that is why the membership is down. We are keeping the paid person totally out of donations and fundraisers. We had a call this weekend with 160 man hours in with 38 members. We are going to look at you hard about getting a paid guy during the day because our donations are down and fundraisers are down.

Sam Laws, Avery County citizen, stated "I want to talk about taxes in general. I was at the January meeting when the auditor come, Sharon Gillespie and she said you had \$20,000,000 in fund balance but that does not mean you have \$20,000,000 to spend. The state requires 8-10% over your budget for the "rainy day fund" but that leaves \$11,000,000. Those figures don't jive. Your budget is about \$27,000,000. Kenny, you are an accountant that leaves \$17,000,000. You are supposed to cut to balance the budget. Are you going to raise the tax rate again so you will have \$20,000,000 more in fund balance or are you going to take the balance needed to balance the budget like you are supposed to? Ronald Reagan said if you set your tax rate more than enough to cover your budget you are stealing off of the people. That is the way I feel about and I think that is the way all the people feels about it. You will sit here and say we are in the top 10 in the cheapest tax rate. Compare this with Mitchell and Yancey County. You have a 4 billion dollar tax base in Avery County; they have a 1.5 billion dollar tax base. If you were taking in the same dollars as Mitchell and Yancey Counties you would have a 15 cent tax rate instead of a 40 cent tax rate. I am going to send this to the papers."

Public Hearing- Authorizing Expenditure of Funds to Hire Architect in regard to the AC PRIDE Motion by Phyllis Forbes and second by Martha Hicks to go into a time of Public Hearing regarding authorizing expenditure of funds to hire an architect in regard to the AC PRIDE project at 3:50 p.m. Motion unanimously approved.

Chairman Poteat read aloud the advertisement for the public hearing which states:

The Avery County Board of Commissioners will hold a Public Hearing on Monday, April 1, 2013 at 3:50 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC 28657. The purpose of the public hearing is to authorize expenditure of funds to hire an architect in regard to the economic development project known as AC PRIDE, a business incubator.

Chairman Poteat repeated that the only thing that would be discussed today is concerning the authorization to expend funds to hire an architect; nothing else. If you came to speak about something else about the incubator this is not the time, this is to speak about architect fees and that only.

Chairman Poteat read aloud the letter to Bret Gardella, Economic Development Director, from David Patrick Moses Architect which stated:

You asked us to provide a proposal for the estimated cost to prepare the necessary drawings as per the Town of Banner Elk Zoning Ordinance for a Conditional Use Permit for the AC PRIDE incubator project. We had previously sent to you a proposal indicating that we would do this work on a time basis and gave a range of what we thought that fee would be. To demonstrate our belief in the growth of Avery County and to help expedite the project and the Town of Banner Elk submittal process, we would be willing to donate our time through the requirements for the conditional use permit as per the following summary.

- *Prepare a comprehensive site plan to include the location of existing buildings, walks and other structures.*
- *Location of solid waste container and represent the waste container screening and Compliance with the Town of Banner Elk Zoning Ordinance.*
- *Required Parking per the Town of Banner Elk Zoning Ordinance and provide parking Calculations per the Zoning Ordinance.*
- *Indicate required accessibility parking per North Carolina State Building Code.*
- *Indicate location of new accessible ramp to the main entry of the incubator.*
- *Identify the property lines and also neighboring properties surrounding the property.*
- *Indicate green space locations in and around the parking area and provide planting locations and provide a proposed plantings list.*
- *Provide floor plan with square footage summary, which will be based on existing Schematic floor plan that has been prepared by the Economic Dev. Office.*

Chairman Poteat stated that we greatly appreciate David Patrick Moses and Joel Shipley's willingness to do what they said. We are very pleased for them to volunteer their time and effort.

Chairman Poteat reiterated that the purpose of the hearing was to authorize expenditure of funds to hire an architect. There is going to be no expenditure of funds so in some ways it is a moot issue.

Glenn Johnson stated that he wanted to thank these gentlemen for the belief in trying to grow our county economically.

Martha Hicks had no comment.

Phyllis Forbes said she appreciated their help.

Reo Griffith stated "If you are volunteering a service that is commendable. Larry Cuthbertson even spoke a little bit ago that people don't volunteer this day and time for much of anything. This started out as a letter addressed directly to Bret Gardella. Over the last month many people from all part of Avery County have talked to me about the incubator and its expenditures. They expressed their disappointment over the money and time being wasted. They have questioned the results achieved by the ACPRIDE project. As a result of these conversations, I decided to take a closer look at the expenditures of the Economic Development department for this current budget year. The county budgeted \$221,890 for economic development this year. This department's budget was increased by 602.2% in a time when the county was slashing other departments' budgets. The County budgeted the Economic Development Department and Mr. Gardella: \$30,000 for advertising, \$7,680 for utilities and internet, \$1,200 in travel, \$24,000 in an economic incentive fund and \$75,000 for capital improvements. We also passed a budget amendment in the amount of \$35,000 for a new roof. Specifically in his budget is the "economic development--incentive fund" which consists of \$24,000. Last year this fund had \$20,000 in it. What is this fund's purpose? Who decides who gets the money? I would again like to remind the Board that under General Statute 158-7.1 that this money or any money in his budget that is for an economic incentive cannot be spent without a public hearing. The public has a right to know. As of today, 565 days

(1 year, 6 months and 18 days) have passed since Mr. Gardella introduced the incubator ideal to the county commissioners. There is still no incubator and in reality very little progress is being made towards there ever being an incubator. From day one people have commented on how secretive this entire process is. Those days are over as of April 1, 2013. The details of this project must be discussed before the public today. During my research, I discovered that Bret Gardella has on the taxpayer's money had trips to Chicago and Las Vegas. He also had a trip to Washington, DC. However, he did not attend this trip, but the county ended up still paying \$3,814.94. This included \$964.94 for lip balm. The Las Vegas trip cost us \$5,005.80 including \$886.00 for lip balm. The three trips in total cost the taxpayers \$11,261.02. Mr. Gardella spent \$2,469.83 dollars on lip balm to use as advertising for Avery County. These expenditures are separate from the money spent on the old Banner Elk School. The ACPRIDE project continues to waste money without assurance that the incubator will ever exist. Also, Mr. Gardella continues not to follow requests from this board. I am now reading word for word from the Avery County Commissioners Meeting on January 24, 2012: *The Board discussed the AC PRIDE project at the old Banner Elk School. They also discussed that the EDC Director must get assurances that the Town of Banner Elk will give a variance and get the state and county inspectors in the building before any money is spent on this project.*

However, the spending continued. The county has spent thousands of tax dollars on the old Banner Elk School. However, to my knowledge based upon a review of the Avery County Commissioners' minutes Mr. Gardella has yet to have state or county inspectors come to the building. If he has, he has not told of the results in an open meeting. We still do not have a conditional use permit from Banner Elk or any written assurances that one will be granted. Yet, Mr. Gardella continues to spend the taxpayers' money on the incubator. As of today, the county has spent or budgeted at least \$131,000 on the incubator over the last 565 days. However, we still do not know what type of businesses will be allowed to operate in the incubator and how much rent will be. We still do not have inspections, leases, certificate of occupancies, building permits, building plans or even basic architectural studies. The taxpayers do not know what will be necessary to bring the building into compliance with the North Carolina building code if it ever reopens for retail stores and offices. Most importantly, we do not know what it will cost the people of Avery County to do this. The people of Avery County have the right to know the costs. It is the people of Avery County's money being spent. I would like for Mr. Gardella to present his signed letters of intent for public review at this meeting. I would also like for Mr. Gardella to explain the application process and show us the application form. Like Banner Elk, we need to know the criteria for admissions to the incubator. How many jobs will it create? How much will it add to the personal property tax base and the county's sales tax base? Mr. Gardella needs to explain these figures to the people of Avery County in a public meeting. He has had 565 days to gather these estimates. Mr. Gardella needs to show his business plan for the incubator. I would like to have a written copy that could be distributed to the public. The money is the taxpayer's money and they should have input. I would like to see a copy of his marketing plan and his advertising plans. For this fiscal year, the old board budgeted Mr. Gardella \$30,000 for advertising. So far, advertising has only included lip balm and bicycle tourism conventions in Chicago, Washington and Las Vegas. Not one single penny of advertising money has been used to promote the incubator. The \$2,469.83 worth of lip balm went to promote bicycling. The expense for the conventions in Washington, Chicago and Las Vegas which costs us \$11,261.02 was for bicycling. He has spent approximately 1/3 of his advertising budget for bicycle conventions in Washington, Chicago and Las Vegas. He is 56 percent over his travel budget. I cannot find in the minutes where he requested a budget amendment to cover the additional travel expenditures. If the incubator is as important to the county's growth as Mr. Gardella claims, then shouldn't more of his advertising budget and travel budget go to support the incubator instead of trips to Las Vegas. Once again, I am reading from the Commissioners Meetings minutes December 3, 2012: *'Commissioner Hicks questioned how many businesses right now had committed to coming into the business incubator. Mr. Gardella stated that there were two letters of intent from two businesses. This is without marketing the institution. The Chamber had also been interested in a space. I anticipate once we start marketing we will get more businesses interested.'* Isn't 565 days enough time to start marketing an empty building? He has found time and money to market bicycling with trips and lip balm. Why isn't Mr. Gardella taking care of the basics on the incubator project?" Why are we discussing preliminary architectural studies 565 days after introducing this project? This should have been done at least over one year ago and before we spent and budgeted \$131,000 on the school. Why are we still waiting on inspectors, despite the Board asking him to have inspectors on the property in January of 2012? Where are the county inspectors and state inspectors reports saying what it will require for the building to be up to code? Why did we put on a roof without these inspections? Why did we install a lighting system without these inspections? Why did the county budget all the money for capital projects without opinions from inspectors? Why spend money before we have an estimate of what the projected costs from an inspection standpoint will be? We are putting the cart before the horse and wasting money. I am not aware of any written agreements between Mayland and Lees McRae regarding providing advisors to the school. Who is going to pay for these services? Where are the economic incentive contracts among the businesses and the county? Where are the admission guidelines for businesses. Where are the advertisements about the incubator? Where

are the projections of costs and revenues? When will the incubator become self-sufficient and not require taxpayers' dollars to operate? 565 days into a project these questions should have been already answered. Where is the grant money? Again I am going to read from the January 3, 2012 minutes: *Gardella advised that there was a source of funds available and if the firm of McGill and Associates was brought on board to perform the engineering study, Mr. Denny Martin with the firm would assist in funding grant monies.*

What have Avery County people received after 565 days, \$135,000 in improvements, \$2469.83 in lip balm and \$11,261.02 in trips to Chicago, Washington, and Las Vegas. As far as the incubator is concerned, nothing. Despite his lack of progress on the incubator, we continue to allow him the use of the Banner Elk School. The old Banner Elk School is the people of Avery County's property and it is worth between \$1,000,000 and \$4,000,000. We need to see a return to the taxpayers on its use. All of the businesses that Mr. Gardella located for inclusion in the incubator is already operating in Avery County or were planning to open in Avery County. The High Country Press reported that the brewery is planning on locating in Banner Elk even without being subsidized by the incubator. This is not economic development. If anything, the incubator is harming economic development of the county.

For over the past year and a half the people of Avery County have been paying for a project that may never exist. They are tired of this waste of time and money. Simple items such as inspections that should have been performed at the outset have not occurred. We do not know what the costs to get the building up to code will be. There is no building permit, no occupancy permit, no leases, and more importantly no results. However, there are trips for Mr. Gardella to Chicago, Washington, and Las Vegas. What has AC PRIDE accomplished? After 565 days, no one can explain to me the public benefit from a dollar and cents standpoint. No jobs are being created, no guarantee of jobs being created, no leases, no permits, and no contracts or inspections. How much more time and money must be wasted before we simply say no to the incubator?"

Mr. Griffith made a motion at this time to stop the incubator and all fundings concerning the incubator. Michaelle Poore, County Attorney, advised that the Board must come out of the public hearing before a motion can be made.

Chairman Poteat stated that there were a lot of questions and that the Economic Development Director would be placed on next month's agenda to address Mr. Griffith's questions and concerns. Bret Gardella, Economic Development Director, stated "everything that he read had nothing to do with architectural fees and for my department and on behalf of Avery County I feel pretty belittled that he was able to read that statement, get it into the press and read in front of the folks here and I am not getting a chance to rebut his incorrect information." Chairman Poteat advised that this would be addressed at another meeting.

Phyllis Forbes questioned Mr. Griffith if he had addressed any of his questions to Mr. Gardella. Mr. Griffith answered that he had not addressed these with Mr. Gardella.

Martha Hicks read from the proposal from David Patrick Moses: "We are not providing any additional warranties of any existing conditions of the building or additional requirements for plumbing, mechanical, electrical or building code requirements for this project nor does it include time for any meetings with the Planning Board or Town Council. These items would all be considered as separate items."

Bill Baulieu, citizen, stated "I appreciate you offering free consulting. I don't foresee any reason for doing it. This is a hole in the ground that we are wasting money on. There is no reason that there should be any vote on it. Bulldoze the old school down. The private sector is the one that pays for this. We are tired of this."

Clay Houston said "Mr. Griffith has covered most of my comments very well. For the last 25 years or so Avery County has hired a lot of architects. As a matter of fact when I sit on this board with you, we hired 3 or 4 for building new schools and that fee for those architects was \$200,000 to \$400,000. It is hard for me to believe that we have an architect that loves Avery County so much that he is going to donate his time to do this work on this project. I wonder if there was any under the table dealings on this thing and I would like to know this now."

Bret Gardella stated "I am not going to stand by Mr. Chairman. I am not going to let these unfounded accusations go by. Mr. Houston, I don't know you and you don't know me. If you wanted to know something all you had to do was come by my office. I have never hidden anything from anybody regardless of what our new commissioner thinks. These two fine gentlemen volunteered their time, I did not ask them. They volunteered their time because they believe in this project for Avery County. We are

trying to grow the county, trying to create businesses, trying to create jobs and they believe in that. If you do not, I cannot help you but don't dare try to besmirch me or any of these commissioners. " Chairman Poteat questioned Mr. Gardella if there had been any money under the table. Mr. Gardella said there had been no under handed dealings on this project or any project that he had been involved in.

Mr. Gardella addressed Mr. Houston again and stated "for you to suggest anything like that is disgusting and despicable." Mr. Houston said he suggested that because he had never known of an architect to donate time to Avery County because he loved it so much. Mr. Gardella said "then you do not know these fine gentlemen right here because they did just that."

David Patrick Moses stated "I would like to say for those of you who do not know me or my associate Joe Shipley we have been living and working in Avery County since the middle 80's. I actually started my practice in 1981 just over the line at Mill Ridge and then in 1985 moved in to Avery County. We have spent many years building our reputation and it is built on professionalism, honesty and built on integrity and there is nothing that we would ever do and for you to insinuate that there was under the table dealings is totally ludicrous and I take exception to that. We are here to help this county if you want our help. Joel has lived here all his adult life and his children have graduated from school here. We have been working here and done many projects from this county and are proud of them and we have done these as honestly and completely as we possibly can and for you to throw out indiscriminately that architects are not going to do anything for Avery County because they like it and to insinuate there was under the table dealings is wrong."

Rachel Deal stated "I want to say on behalf of Avery County and all of the work I do in Avery County for Nothing, these two gentlemen built the Avery Humane Society Building. I think it is so sad that we get upset about these things and fuss about the taxes. We need to think a little more about what we are doing in Avery County. It upsets me to come to meetings when I do all of these things free myself and then people fighting over things of this nature. These gentlemen have done well in Avery County and they have built a lot of things in Boone and around. I think we need to go about the business and stop arguing."

Junior Sluder questioned how much would the fee be from the portion that Ms. Hicks read.

Joel Shipley answered that was to differentiate the services that we were providing and that was a separate entity from the conditional use permit.

Jack Anderson, Sugar Mountain, said " I don't see where there is a benefit to the county or to the general public of the county or property owners who own rental property and pay taxes. I don't think we need to go any further with architect and engineers. I don't want the county getting involved in more than they can handle. "

Motion by Martha Hicks and second by Glenn Johnson to go out of the Public Hearing and back into Regular Session at 4:26 p.m. Motion unanimously approved.

Motion by Reo Griffith and second by Martha Hicks to stop the incubator and expenditures toward the incubator.

**Vote: For—Reo Griffith; Martha Hicks
Against---Kenny Poteat; Glenn Johnson; Phyllis Forbes**

Motion fails 3 to 2.

Resolution Expressing Support for Preservation of the Right to Bear Arms – Travis Proctor

Chairman Poteat stated that he had met with Mr. Travis Proctor with the concerns from the last meeting regarding the resolution. Ms. Poore, County Attorney, said that in the agenda packet there is a resolution that Mr. Proctor has reviewed and approved it but he is also requesting an additional paragraph to be added to that resolution. He had emailed this to me Friday. The language that he is requesting states "Be it further resolved that the Avery County Board of Commissioners supports NC HB 246 as introduced March 6, 2013 as sponsored by Representatives Pittman, Ford, Hardister, and Speciale (Primary Sponsors) and known as "The Gun Rights Amendment" which states in part "In accordance with the Second Amendment to the United States Constitution and this Section, the State shall never engage in a general confiscation of the weapons of its citizens and shall never cooperate in the effort of any other entity to do so."

Motion by Glenn Johnson and second by Reo Griffith to approve the Resolution Expressing Support for Preservation of the Right to Bear Arms with the section read aloud by the County Attorney included in the Resolution. Motion unanimously approved.

Economic Impact of Substance Abuse in Avery County – Rob Lacey; Faith Lacey

Faith Lacey stated that 40 years ago Avery Cares was started and worked hand in hand with New River. Last July a contract was signed with Daymark and after that contract was signed the Avery Cares building became locked a lot and sometime in October Daymark asked the Narcotics Anonymous to move from the building. That program has been there for 40 years and the building has been open for 40 years and it has helped families. This is a place to go have meetings. I am asking you not to renew the lease but leave the building open for substance abuse meetings. The contract expires the end of June. I am asking you to return the building back to the original purpose.

Rob Lacey presented a slide presentation regarding the economic impact of substance abuse in Avery County. Avery County spends \$3,389,000 per year dealing with the consequences of substance abuse and handling substance abuse problems. This is 13.6% of the Avery County budget. Avery County budgets 1.5 million a year for its county jail. 79.8% of the costs are for alcohol abuse and substance abuse. The economic cost also is loss of productivity.

Melissa Johnson stated that the need for drug treatment court is clear in Avery County. Drug treatment court is a real team effort with members of law enforcement, probation, DSS and all of these agencies are contributing to support the program. I hope you will consider funding drug treatment court in the upcoming budget. We served 16 folks last year.

Nancy Morrison commented about drug treatment court and how that this program saves money..

Betty Erhart urged the Board to support the idea of the Avery Cares Building to be available to all groups. She stated that the drug treatment court coordinator could use office space and the Avery Cares would be a wonderful use for that.

Avery County Recreation Facilities – Scott Heath

Scott Heath spoke to the Board regarding the recreational facilities in Avery County. School facilities are the Board's responsibility. At this time there are only three full size gyms in Avery County. There are schools in Avery County that do not have sufficient recreational facilities at the schools. The Board has a direct responsibility to provide the facilities. The solution to these problems is coordination between recreation facilities and the school facilities and working together to provide a recreational facility that would meet the needs of the recreational department and the schools.

Architectural Detail Group—County Eco Lighting Project – Gerald Olesker

Gerald Olesker, Architectural Detail Group, explained that his company came in to discuss energy efficient lighting for the county buildings and schools and how we can engage in the county's behalf and school's behalf to save energy. The county buildings would utilize about \$200,000 in improvements in lighting. Just by changing the lights and light fixtures in the county buildings and schools there is about \$6,000,000 in total savings over the lifetime. The TVA has a rebate program that they call a custom program because they look at total energy used. By going through the specialty program, the eligibility is a 70% rebate. The County building alone would be \$140,000 to offset the savings. We understand with TVA that they require the authority to have someone on the county's behalf looking into the rebate a little further.

Glenn Johnson stated that what these folks are asking from us today is the authority to go to TVA and see what the grants or rebates would be.

There was discussion regarding the lighting project.

Motion by Phyllis Forbes and second by Martha Hicks to allow Architectural Detail Group to discuss with TVA possible rebates or grants relating to the County Eco Lighting Project with the authorization for the County Manager or Chairman to sign the necessary paperwork. Motion unanimously approved.

Tax Administrators Report – Phillip Barrier

Tax Collectors Report

The total tax collections for the month of March 2013 are \$731,602. \$38,000 was past due amounts that were collected.

Motion by Martha Hicks and second by Glenn Johnson to approve the Tax Collectors Report for the month of March 2013 as presented. Motion unanimously approved.

Tax Releases

Real and Personal Property Releases

The total Real and Personal Property Releases for the month of March 2013 is \$1,255.49.

Motion by Martha Hicks and second by Phyllis Forbes to approve the Real and Personal Property Releases for the month of March 2013 as presented. Motion unanimously approved.

Special Releases

Mr. Barrier stated that the Special Releases was for interest to be released. These people bought the property and were not made aware of the taxes owed. The taxes have been paid they would just like the interest released.

Motion by Glenn Johnson and second by Reo Griffith to approve the Special Releases as presented. Motion unanimously approved.

Motor Vehicle Releases

The Total Motor Vehicle Releases are \$658.84. We have started the new system and these were not flagged because of the name being changed. This particular entity is exempt from motor vehicle taxes.

Motion by Phyllis Forbes and second by Reo Griffith to approve the Motor Vehicle Releases for March 2013 as presented. Motion unanimously approved.

Mr. Barrier announced that the Tag & Tax Together Program was underway and eventually the tag registration and taxes would be on one bill.

Mr. Barrier advised that the Board of Equalization and Review will begin meeting on Monday, April 22, 2013.

Mr. Barrier stated that he and the County Attorney would be traveling to Raleigh regarding the Grandfather Mountain Tax Appeal.

Recess

Chairman Poteat called for a brief recess.

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

County Attorney Report – Michaelle Poore

Michaelle Poore, County Attorney, stated that she had two agreements that require Board approval. The first agreement is NC Wireless and we do have someone from NC Wireless here. This is a lease agreement that pertains to leasing space on Hawshaw Tower for providing wireless. This did require advertisement in the paper to provide the public a notice that this agreement was being entered into and that is because of the term of the agreement which is a 5 year term. There is a resolution in regard to this and a lease agreement which will require execution.

Bucky Vance stated "with the agreement that you are wanting to sign there is a major problem. The property that you are leasing belongs to the US Forest Service and the NC Forest Service; it is not county property. The right of way agreement that you have with us is supposed to be county only. The lease agreement is signed through the county. When the tower was set up in 1977, it was set up for three things, 911, Sheriff's Department and fire departments; everything is supposed to come through the sheriff's department. There are 31 satellites on that tower; who do they belong to? I want paid for them and the county wants paid for them. The US Forest Service 14 years ago cleaned house; there were 9 illegal towers on that tower. This is a county issue. I think this should be a joint effort for us to come to an agreement versus my agreement you are crossing through us and giving permission when you don't own the land. The agreement says it is for only county. It is like Interstate 40 up there. Someone is using your facility to make money off of each of us. We can work something out. It has come to the point as of today somebody is going to answer for every tower that is up there."

Diane Vance stated "I realize that the county helps with the road but we personally put 8 loads of gravel on that road."

Bucky said "we want to know who has access to those towers. It has come to the point that everyone who is on the tower is going to start paying the county and us usage. It has come to the point you can't even stop in your own road without someone blowing their horn to go to the tower."

Robert Wiseman, County Manager, stated our maintenance crew has done some limited work on the road.

There was considerable discussion regarding this issue.

Mr. Wiseman suggested that the Board instruct him to start dialogue with the E911 committee and develop a list of users and have some talking points before we come back to the Board.

Mr. Vance stated that according to the lease he could lock the gate and give one key to the Avery Sheriff's Office and the gate be locked behind them. We have to do something about this.

The County Attorney suggested that if the Board is agreeable the lease agreement could be approved subject to the resolution of the right of way issue and then authorize signatures after that time.

Motion by Martha Hicks and second by Glenn Johnson to approve the execution of the lease agreement with NC Wireless, LLC subject to a determination that access can be granted to NC Wireless, LLC. Motion unanimously approved.

ERC Agreement

Ms. Poore stated there was a proposed agreement with the Education and Research Consortium of the Western Carolinas, Inc. or the ERC agreement. This agreement is for a period in excess of one year so there was a notice in the newspaper. This agreement addresses the property leased to be one rack space. Ed Womack, IT Technician for Avery County, has given his approval of the lease also.

Motion by Martha Hicks and second by Phyllis Forbes to approve the Resolution authorizing execution of agreement with the Education and Research Consortium of the Western North Carolinas. Motion unanimously approved.

Motion by Glenn Johnson and second by Martha Hicks to approve the agreement for reciprocal use of services and facilities with the Education and Research Consortium of the Western North Carolinas for a 10 year term. Motion unanimously approved.

County Manager Updates – Robert Wiseman

Juvenile Council Prevention Committee

JCPC has begun doing electronic signatures. Tim Greene has been designated the person authorized to sign the paperwork which will be done electronically now.

Consensus by the Board for Tim Greene, Finance Officer, to electronically sign the JCPC paperwork.

Courthouse Renovation

The Courthouse Renovation is set to begin bidding process in April. The plans are 90% complete.

Reclaimed Resources

Mr. Wiseman stated that the last regular board meeting that he attended we had discussed a retreat to discuss several issues but during his illness this did not get scheduled. The Reclaimed Resources issue decision needs to be made by next week. The contract with Bristol expires in 60 days. I think we have a tremendous opportunity. We have an offer from Reclaimed Resources to execute a contract to take care of all the solid waste as of June 1, 2013 and it is going to cost equal to or less than. One of the biggest concerns is what if the project doesn't go. We are looking at the second year of the contract with Reclaimed Resources where they will take our solid waste at \$0 fee. They need the volume to make the project work. We are talking about a savings for the first two years at least ¾ of a million dollars. One of the "big thunderclouds" is what if the project falls through and they don't finish their project. There are three organizations all in the Bristol area that are "hungry" for our business. If we sign a contract with Reclaimed Resources to take our trash and the deal falls through, we have saved \$40,000 after the first year.

Mr. Griffith questioned how old the company is? Buddy Norris said that this was an established company. Mr. Griffith questioned if the County Attorney had studied this in detail. Ms. Poore answered that she actually drew up the contract. The contract provides for fee structure which is tiered and is set out in the agreement. There is also provision in the agreement that if Reclaimed Resources fail at the agreement the county is free to go somewhere else. There are a couple of provisions that need tweaking.

Michaëlle Poore, County Attorney, stated that if she was understanding the Board that they are agreeable for Buddy Norris, Solid Waste Director, the County Manager and herself to look at the final contract and execute it.

Motion by Glenn Johnson and second by Phyllis Forbes to authorize the execution of the contract with Reclaimed Resources with final approval by the County Manager, Solid Waste Director, and the County Attorney.

**Vote: For---Kenny Poteat, Glenn Johnson, Phyllis Forbes, Martha Hicks
Against – Reo Griffith**

Motion passes 4 to 1.

Comments

Glenn Johnson stated “I am concerned with the way things are going on this Board and a little concerned with the way things are going in Avery County. I take some issue with the cloud of suspicion that is going on such as some comments from some of the public earlier on. It seems to be some attempt to discredit the things that this Board is doing. Personally I think it is a political game. I really take issue and that is the second time I have heard about money under the table. To my knowledge, there is no money under the table. I have to rely on the County Manager, the department heads, the County Attorney. There comes a time when we have to stop how we are operating on this Board. As a County Commissioner, I try to make myself available to whatever department and I try to meet with the departments. Without this, you don't have all of the information. If we are going on what I have seen today, we are not doing the citizens of Avery County any justice. I am here to be about the people's business. We need to work together. When we get in the budget meetings we need to work together for the better of Avery County. We have to make a change on how this Board is operating.”

Phyllis Forbes said “I agree with Glenn. I feel like we need to ask questions and I don't think there is any department head in this county government and all of the employees are great and they are very competent and I feel like any of us that want to go to a department head their doors are open. When it comes to listening to things you hear on the street you better be careful. I would say that at least 50% or 75% is not right and there is more to it than people on the street know. It is a lot different from sitting on this side of the table than that side. Sometimes people see a decision we make and they don't know all of the details. Sometimes it is confidential issues and if it happens to be closed session it needs to stay in closed session. As far as I am concerned, we are a team and we will disagree but there is a way to disagree professionally. We don't need to be at each other's throats any of us and the public does not need to come in here and attack us. I don't think there is a person on this board that is here for the wrong reason. We are here to serve the people of Avery County. Some people feed on conflict and disagreement.”

Reo Griffith said “We absolutely want to leave this county in better shape than we found it. This is pointed towards days meeting. My letter which I am going to furnish a copy of it; emails from Starr; my information came directly from her. My information never came from the streets. Money spent, money spent, money spent. Maybe you all are correct and let us hope you are on the Solid Waste. I know very little on it. Money talked about being spent in hard times in talking about the old Banner Elk School. We say we are about the people's business. The people of the county is not for it. I have been across this county and spoke on their behalf. There is stuff that has went on that Bret has not done. There is really not an incubator because there is not a permit issued 565 days in. I feel like I am getting a scolding. I was not going to bring this up but I am going to now. There is an employee in Phillip Barrier's office that has to lay down in the floor a time or two a day to complete an 8 hour work day because of her bad health. We could not assist her because of policy. Then Bret has foot surgery and there is accommodations made for him; he doesn't have to take sick days and x amount of money spent for internet at his home. Mr. Wiseman had to take a bunch of sick days. Give him a cell phone and landline and he could basically run the county from home. We make special options for Bret. Let it fall where it may fall.”

Mr. Johnson questioned Mr. Griffith if Mr. Gardella had ever invited you to come in and talk to him. Mr. Griffith stated at the very beginning he said “you need to get up with me I am Bret Gardella.” Just the way he approached me I didn't like. Mr. Johnson said if you make yourself available you usually find out what they are doing. Mr. Johnson questioned Mr. Griffith did you not tell me you would sit down with Bret. Mr. Griffith said he had not had time but then things transpired and there was no need to sit down and talk. Mr. Johnson questioned if the clerk tried to set up a meeting with Mr. Griffith, Ms. Hicks and Bret. Mr. Griffith said that his response was that he did not have time.

Chairman Poteat stated that we will not deliberate any further. In my opinion, the job of County Commissioner is not to micromanage ;we hire people to do that. If we have concerns, we share with management and if we don't like what they are doing get rid of management and hire someone else.

Martha Hicks stated "I appreciate the chairman. I hate to see this discontent. I go to boards and hear people's comments and you can change your kind on how you vote and today I changed my mind. The reason I changed my mind there are so many people saying to sell the school. Just because I voted that way does not mean I won't work to help the incubator go on. If that is what the county wants, I will be the first one to help. I appreciate Bret. It disturbs me that our Board has fallen apart."

Finance Officer Report – Tim Greene

Budget Amendment

Legal fees need to be increased due to engaging an outside legal firm to represent the County for a property tax appeal at the Property Tax Commission in Raleigh.

Motion by Phyllis Forbes and second by Martha Hicks to approve the Budget Amendment of \$60,000 for professional legal fees with a debit of \$60,000 to Professional-Legal Fees (104100.0300) and a credit of Fund Balance Appropriation (103990.0000). Motion unanimously approved.

Tim Greene, Finance Officer, suggested that a committee be formed to help with the "extra pay money" issue with the Sheriff's Office. In the Sheriff's defense, he doesn't have any control over what amount the "extra pay money" is. I have come up with a figure and I have either done a poor job of coming up with the extra money or he has done a poor job of managing or a combination of these two. I think a committee should be formed that comprises Reo Griffith, Martha Hicks, Robert Wiseman, Tim Greene and two from the Sheriff's office. I would like to meet before the first commissioner's budget workshop. Mr. Greene will set up an appointment with these individuals in the near future.

County Attorney Report Continued– Michaelle Poore

Ms. Poore advised that the Board needed to authorize for Bret Gardella to be able to sign the conditional use permit application for the Town of Banner Elk.

Motion by Phyllis Forbes and second by Glenn Johnson to authorize Bret Gardella to sign the conditional use permit application for the Town of Banner Elk.

**VOTE: For—Kenny Poteat; Glenn Johnson; Phyllis Forbes; Martha Hicks
Against--- Reo Griffith**

Motion passes 4 to 1.

Ms. Poore reported that the lawsuit regarding Appling versus New River has been dismissed.

Approval of Minutes

Motion by Martha Hicks and second by Glenn Johnson to approve the Regular Session February 4, 2013 minutes. Motion unanimously approved.

Agenda Consent Items

The Records Retention Schedule for the Register of Deeds is adopted by Consensus of the Board.
Agenda Consent Items Adopted by the Consensus of the Board.

Upcoming Meetings

The next Regular Meeting will be May 6, 2013 at 3:30 p.m.

Adjourn

**Motion by Martha Hicks and second by Glenn Johnson to adjourn this meeting at 8:45 p.m.
Motion unanimously approved.**

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

ATTEST: _____
Cindy Turbyfill, Clerk

