

**STATE OF NORTH CAROLINA  
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Tuesday, January 3, 2012 instead of Monday due to the New Year Holiday in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC.

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

Members Absent: None

**Call To Order**

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

Scott Heath led prayer.

Chairman Poteat stated that if anyone would like to speak to an agenda item but was not listed on the agenda they must sign up with the clerk otherwise there would be a time of public comment.

**Public Comment**

There were no public comments.

Chairman Poteat announced that a public open house for the new jail facility would be Saturday, January 14, 2012 from 11:00 a.m. to 5:00 p.m.

**Board Appointments**

**Avery County Airport Authority**

Robert Wiseman, County Manager, stated that Mr. Ray Knowles who was recently appointed to the Avery County Airport Authority had resigned due to time constraints. The Avery County Airport Authority has two applications one for Mr. Jim Dorman and one for Mr. Dempsey Clark. The airport authority has recommended Mr. Dempsey Clark to finish out the term of Mr. Knowles who was appointed in June 2011 for a two year term.

**Motion by Glenn Johnson and second by Martha Hicks to appoint Dempsey Clark to fill out the term of Ray Knowles. Motion unanimously approved.**

**Avery County Safety Board**

Mr. Wiseman stated that there was a safety committee in place for 3-4 years. This was with the assistance of the NCACC helping to form this safety committee. The benefit that the county realizes from this safety committee is the safety and welfare of the staff and citizens of Avery County. Also, this safety committee gives Avery County a boost with the insurance premiums. This committee has never been officially appointed by the Board. The Commissioners need to appoint these individuals to the committee for record keeping and reporting back to the NCACC. Five members will be appointed by position for two year terms. Two positions will serve a four year term; the county manager and assistant finance officer. The five people with two year terms would be the clerk of court, tax assessor, emergency management director, EMS director, and representative from the sheriff's office—detectives division.

**Motion by Martha Hicks and second by Scott Heath to appoint the County Manager and Assistant Finance Officer for a four year term on the Avery County Safety Board and to appoint the Clerk of Court, Tax Assessor, Emergency Management Director, EMS Director, and Detective from Sheriff's Office for a two year term to the Avery County Safety Board. Motion unanimously approved.**

**Public Hearing – Community Transportation Program – Avery County Transportation---Linda Cuthbertson  
Chairman Poteat declared the Board to go out of Regular Session and into a time of public hearing at 3:50 p.m. concerning the Community Transportation Program for Avery County Transportation.**

Linda Cuthbertson, Director of Avery County Transportation, handed out a form to be filled out by the public who were in attendance at the meeting.

Ms. Cuthbertson explained that the Community Transportation Program monies were used for administrative costs including salaries for the director and assistant director of transportation and half the salary for the officer manager and also supplies. The total funding request is \$226,600 with the total local share being \$33,990 (15%). Avery County is not eligible for capital monies this year because we have received a large share of monies in the past few years.

Sam Ray stated that the veterans appreciate all that Avery Transportation does for the veterans.

**Chairman Poteat declared that the Board would remove themselves out of a time of public hearing regarding the Community Transportation Program for Avery County Transportation and back into Regular Session at 3:58 p.m.**

**Motion by Scott Heath and second by Glenn Johnson to approve the Community Transportation Program Resolution for the Fiscal Year 2013. Motion unanimously approved.**

**Board Appointments**

**Avery Library Board and AMY Regional Library Board**

There is currently a vacancy on the Avery Library Board and on the AMY Regional Library Board. Mr. Stephen Bender has been recommended by Dr. Daniel Barron and the Avery Library Board and AMY Regional Library Board.

**Motion by Martha Hicks and second by Glenn Johnson to appoint Stephen Bender to the Avery Library Board and the AMY Regional Library Board contingent upon Dr. Barron's interpretation of the length of the term. Motion unanimously approved.**

**Tax Administrator Report – Phillip Barrier**

**Tax Collections Report**

The tax collection for the month of December 2011 is \$4,606,272.60 which is unofficial.

**Motion by Scott Heath and second by Martha Hicks to approve the unofficial report as presented for December 2011. Motion unanimously approved.**

**Motor Vehicle Releases**

The total motor vehicle releases for the month of December is \$394.56.

**Motion by Glenn Johnson and second by Scott Heath to approve the Motor Vehicle Releases as presented for the month of December 2011. Motion unanimously approved.**

**Motor Vehicle Refunds**

The total motor vehicle refunds for the month of December are \$55.54.

**Motion by Martha Hicks and second by Scott Heath to approve the motor vehicle refunds for the month of December as presented. Motion unanimously approved**

**Property Sales Statistics**

There were 55 foreclosures at Eagles Nest in Banner Elk. Total foreclosures is up to 152 since July.

**Tax Listing Notice**

Mr. Barrier stated that it was tax listing time.

**Community Service Block Grant – WAMY**

Mr. Wiseman stated that this is the fourth year of a five year Community Service Block Grant. This grant has to be renewed every year. Forty clients are served with the \$23,400. This needs to be approved to be in compliance with the NC Administrative Code. This grant does not involve expenditure of county monies. Scott Heath said that WAMY is a nonprofit entity that is the working mechanism of generally federal and state funds. This is one of the organizations that performs this. WAMY provides a variety of services designated to assist low income families to obtain the skills, knowledge, and motivation necessary to achieve self-sufficiency.

**Motion by Martha Hicks and second by Scott Heath to approve the WAMY CSBG application on Avery County's behalf ; these are 100% grant monies. Motion unanimously approved.**

**Governors Crime Commission Grant – Troy Cook**

Troy Cook, Avery Sheriff's Office, stated that one of the priorities for the Governors Crime Commission is technology. He said that he would like to apply for smart phones to allow the officers with a net book to make reports in the field. This would allow for more time on the road and less time in the office. The sheriff will meet with Ed Womack, Avery County IT and Southern software to get some better numbers. The best estimate at this time is \$33,000 which is probably a high estimate. This is a 75% federal and 25% local grant.

Chairman Poteat explained some of the fund balance appropriations that the Sheriff's Office had incurred recently. There has been slightly over \$100,000 appropriated from fund balance. Chairman Poteat said "it is not like the Board has not tried to help the Sheriff's Office".

Glenn Johnson commented that if we did approve this for this year Avery County will be paying for all of this next year.

Scott Heath stated “grants are wonderful but I have an issue with the Sheriff’s Office having a shortfall last year. I would feel better in committing funds if there had not been a shortfall. The Sheriff’s Office must take care of that before the opportunities can be utilized. We have a tendency to commit to apply to these things and we end up getting behind the 8 ball.”

**Chairman Poteat advised “no action would be taken at this time on this issue”.**

Troy Cook questioned if he did or did not have permission to apply. Chairman Poteat stated “ if the application was made it would come out of your hide in your current budget or next year’s budget with no additional funding forth coming.” Troy Cook said he would discuss with the Sheriff regarding this issue.

**Recess**

Recess for 2 minutes.

**A.C. P.R.I.D.E. – Bret Gardella**

Bret Gardella, Economic Development Director, updated the Board on the A.C. P.R.I.D.E. project at the old Banner Elk School. Mr. Gardella stated that his previous estimation for the security cameras and system was approximately \$2000 but after discussion with Mountain Heritage Lighting the system would need to be a commercial system which would be approximately \$5000. Also the rekeying of the facility would be approximately \$5400. Mr. Gardella stated that he did have the monies for the security system and rekeying the facility in his present budget. Mr. Gardella also stated that there would need to be an engineering study regarding the heating and roofing in the building. He advised that there was a source of funds that is currently available and if the firm of McGill & Associates was brought on board to perform the engineering study, Mr. Denny Martin with the firm would help assist in finding grant monies.

Chairman Poteat stated that right now the Board had not voted on whether to proceed with the A.C. P.R.I.D.E. project. There was discussion regarding this project.

Mr. Wiseman advised that there were certain assets on the property and would request that the Board allow Mr. Gardella and the County Manager to work together to dispose of these buildings and the money go toward the security system.

Dr. Carol Burns, Town of Banner Elk citizen, expressed her concern about not having any written materials, information, or budget on this project. She said certain aspects of this project felt secretive. She also expressed concern that there was no one from Banner Elk on a committee or involved in the development process of the old Banner Elk School.

Chairman Poteat stated that he appreciated what Dr. Burns concerns were.

**Motion by Scott Heath and second by Martha Hicks to allow the Economic Development Director to proceed with the A.C. P.R.I.D.E. project and the security measures. Motion unanimously approved.**

**County Manager Updates – Robert Wiseman**

**Broadband**

Mr. Wiseman stated that he had spoken with Mr. Kurt Frenzel and this project is on track.

**Linville Cove**

The Linville Cove project is on track. Advertisement for engineering services were placed and there were two services that met the requirements. The legal officials are in the process of preparing contracts for the engineering services for the Board approval.

**Right of Way Acquisition – New Banner Elk School**

Mr. Wiseman advised that there was an agreement and a resolution for the turn lane at the new Banner Elk School. The construction monies were appropriated by the Department of Transportation. The issue now is the acquisition of the right of way. There are eight separate parcels that have to be acquired to develop the turn lane into the new school. The Department of Transportation funding for the acquisition of right of way does not come from normal DOT funds but from the contingency fund which needs special legislative appropriation. Hopefully if everything comes together the construction would begin after school is out and be completed by the time the staff and students come back to school. Mr. Wiseman stated that he was very confident that our senators and representatives could help access those contingency funds and pay for the entire cost of the project. The only issue now is that late Friday a proposed contract construction agreement from DOT which says instead of \$150,000 that Avery County must guarantee that we will stand good for the acquisition costs which is \$220,000. To start the process we need to

execute the agreement. We also need to execute a resolution which is the paperwork necessary to send to the legislators so they can have in hand. Mr. Wiseman stated that he would recommend that the Board pass the resolution that communicates to the elected officials that Avery County needs help from the DOT contingency fund.

Scott Heath stated that in his opinion a turn lane is less of a safety issue and more of a convenience. He said he was not ready for Avery County to chunk in \$220,000 for the turn lane but that he was ok with passing the resolution to ask for the monies from the contingency fund.

Mr. Wiseman said he recommended that the Board adopt the resolution and wait information gleaned through said resolution and through the County Attorney's help investigate some of the wording of the agreement and that the Board withhold on signing the construction agreement.

**Motion by Scott Heath and second by Glenn Johnson to adopt the resolution as printed pertaining to allocation of money from North Carolina Department of Transportation Contingency Fund for the acquisition of rights of way and associated costs.**

Chairman Poteat reiterated the second "Whereas" in the Resolution which states "due to current economic conditions in Avery County local funds for the acquisition of these properties are not available".

**Vote: Motion unanimously approved.**

**Finance Officer Report – Tim Greene**  
**Budget Amendment**

Due to the change in the Low Income Energy Assistance Program through the Department of Social Services, the County will now be issuing the payments for the Low Income Energy Assistance Program. This is 100% reimbursed. The County will actually be "cutting" the check for this program instead of the state. This is a change in the system.

**Motion by Martha Hicks and second by Glenn Johnson to approve the Budget Amendment requiring a change in the Low Income Energy Assistance Program in which the County will now issue the payments with a debit of \$21,393 to Crisis Intervention (106800.6090) and a credit of \$21,393 to County Welfare (103634.0000). Motion unanimously approved.**

**County Attorney Report – Michaelle Poore**

Ms. Poore advised the Board that before the Board is a proposed purchase contract for the Humane Society to purchase the four acre tract at an offer price of \$25,000. She said she had spoken with Ms. Morton earlier and Ms. Morton indicated that the Humane Society has one lender who still has not gotten back in touch with them on whether or not the lender is willing to loan money based on the lease hold interest or if that lender is going to require the Humane Society to have a deed to the property.

Chairman Poteat questioned Ms. Poore if there was wording that allows the County ingress and egress across the property. Ms. Poore stated that these issues were not part of the contract but could be included.

Scott Heath stated that before a piece of property is sold the easements and right of ways need to be in place. He said he felt there needed to be more conversation about this issue.

Ms. Poore stated that right now the county has leased the property to the Humane Society and there are certain conditions that require the property be used as an animal shelter and that is what is giving the lenders pause because if the Humane Society defaults in their payments then the bank wants to be able to foreclose on the property and sell it for whatever. If the property is deeded to the Humane Society, there would be no restrictions on the property.

Catherine Morton said she felt it would be better to wait another month and get an answer from this bank.

Chairman Poteat declared there would be no action on this issue at this time. He said in one man's opinion the majority of this board if "push comes to shove" would want this to continue as the Humane Society and would be willing to do an "offer to purchase" contract.

**Closed Session**

**Motion by Glenn Johnson and second by Scott Heath to go into a time of Closed Session at 7:10 p.m. regarding G.S. 143-318.11 (a)(3) Attorney/Client Privilege. Invitees would be the Board, County Manager, Finance Officer, County Attorney and Clerk. Motion unanimously approved.**

**Chairman Poteat declared the meeting to be back in Regular Session at 7:40 p.m. after a time of Closed Session. During said Closed Session, no vote was taken.**

**Approval of Minutes**

**Motion by Martha Hicks and second by Scott Heath to approve the Special Meeting Minutes for November 28, 2011 and Regular Session Minutes for December 5, 2011. Motion unanimously approved with those in attendance (4-0).**

**Agenda Consent Items**

**Adopted by Consensus of the Board.**

**Upcoming Meetings**

The next regular meeting will be Monday, February 6, 2012 at 3:30 p.m. The ribbon cutting ceremony for the new jail facility will be January 13, 2012 at 1:00 p.m. and the Public open house will be January 14, 2012 from 11:00 to 5:00 p.m.

**Adjourn**

**Motion by Scott Heath and second by Glenn Johnson to adjourn this meeting at 7:44 p.m. Motion unanimously approved with those in attendance (4-0).**

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

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