

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery Board of Commissioners held a Special Meeting on Tuesday, August 6, 2013 at 6:00 p.m. with the Avery Fire Commission and Avery Firefighter's Association in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC. The purpose of the meeting was to discuss the fire service contracts and any other issues pertaining to fire service in Avery County and take any necessary action thereon.

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

Members Absent: None

Others Present: Paul Buchanan, Fire Association President; Bobby Powell, Vice President of the Fire Association; Fire Chiefs; Daryl Smith, Avery Fire Commission Chairman; Danny Clark, Fire Commission Member; Joe Perry, Fire Commission Member; Johnny Mathes, Fire Commission Member.

Call To Order

Chairman Poteat called the meeting to order at 6:00 p.m.

Chairman Poteat thanked the Fire Association, Fire Chiefs, Fire Commission and Commissioners for being at the meeting. He said that these are very important issues to everyone at the meeting. Chairman Poteat stated that the number one responsibility is fire protection for the fine people of Avery County. We attempted to get together a few days ago and the fire association had retained an attorney and the attorney was unable to attend at the meeting on Thursday so hence the meeting tonight. We are going to limit the time to 3 hours if needed and look for closure at 9:00 p.m.

Martha Hicks led prayer.

Kathryn Hemphill advised that she was representing the Avery County Fire Association. "One of the other things to bring to your attention last Thursday night was also the annual meeting of the fire association and was their election which was a conflict with last Thursday. I would not have been here anyway because I was going to the seafood buffet at Linville. We appreciate you rescheduling the meeting for tonight."

Paul Buchanan introduced the fire chiefs: Gary Miller, Banner Elk Fire Dept.; Kenny McFee, Green Valley Fire Dept.; Dean Gibbs, Crossnore Fire Department; Bob Garland, Avery County Ladder Truck; Derrick Jaynes, Elk Park Fire Dept; Mark Taylor, Linville Fire Dept.; Bob Pudney, Beech Mountain Fire Dept.; Bobby Powell, Seven Devils Fire Dept.; Johnny Mathes, Frank Fire Dept.

Ms. Hemphill stated "I think it is important from the prospective of the fire association for you to know what we feel like we need to get accomplished. There are some really serious problems that exists and I have become aware of them in the last month since I was first engaged for my services of the Linville Fire Department and then by the Fire Association. We would just ask you to please listen because there are some underlying problems that I think are of a serious nature that have been promised for 2-3 years that have gotten people to the point that they are tonight which is virtually a standoff. My remarks quite candidly are going to be critical of the Avery County Fire Commission because that is what my research and what I have been talking with people and looking through the statutes have ascertained and that is where the problems that need to be addressed is with the fire commission with management and communication with the fire chiefs. As you know, with the exception of three departments, you do not have contracts and it is a crisis. Their response in not signing contracts is years of frustration, years of what they have seen as lack of response to the needs of the department, lack of being heard and your response, I assume pursuant to the Memorandum of Understanding, has been to withhold funding so you are at a standoff. Our hope tonight is to let the Board know what the underlying issues are but let the board know what we hope can be done tonight is at least an extension of the contract that exists because I don't think these chiefs are going to sign the contracts. I have talked to the chiefs and the President and they feel like work needs to be done. They are willing to do it. They are hoping that the Fire Commission will respond. There are a couple of things that I would like to point out to the Board that jumped out at me when I started going through the existing problems and listening to people. As you know we are operating under a private law that was enacted in 2003. It is a state law which is called "An Act to Enable the County of Avery to establish an Avery County Fire Commission". It was enacted by the North Carolina General Assembly in 2003 and it is called a private session law meaning it is only applicable to Avery County. All the same, it is a NC General Statute law and that is what the Fire commission should

be operating under. I asked Michaëlle about a month ago if she could get me all of the documentation that the statute requires and that included the Mission Statement, The Memorandum of Understanding, the minutes for the last couple of years, the budgets, all of the bylaws, procedures, everything. Yesterday she was kind enough to finally get me all of that and this is what was given. I was shocked to learn after meeting with Paul last night that none of this has ever been given to one department. They did not know that this existed. There is a Mission Statement that sets forth that says 'the mission of the Avery County Fire Commission is to ensure that the highest level of fire protection and prevention is provided to the people of Avery County by guaranteeing that fire tax revenues provided to each department are used to provide the resources necessary to achieve maximum service.' It goes on to provide for rescue. Paul, President of the Association and I don't think unless one of the other chiefs knew had ever seen these documents. What is real upsetting and I think is a glaring problem is that there is a Memorandum of Understanding which is a 4 or 5 page document which sets forth under the statute. It states that the Avery County Board of Commissioners and the Fire Commission shall jointly adopt a Mission Statement as well as a Memorandum of Understanding jointly agreed upon and clearly stating the expectations and obligations of each under the act. I was provided the Mission Statement and it was signed September 4, 2012 by the chairman of the Avery County Commissioners Kenny Poteat and the chairman of the Fire Commission Daryl Smith; it has never been voted on by the fire commission or if it has it has been in secret because I have read everyone of the minutes from 2011 up to September when this was adopted and this was never brought before the joint commission. It has never been ratified by the fire commission or the departments yet this is the document that everybody has been saying to the chiefs this is what you have to go by; they have never seen it before. This is the kind of problems that exists that no wonder these men are concerned and upset. They basically have been dictated to for three years based on documents they didn't know existed. I don't know how this thing got signed. Honestly, I have read every one of the minutes of the fire commission for 3 years and there is nothing in here ratifying or adopting this document yet it is the controlling document. The fire commission has bylaws. I can't find anything that adopted the bylaws. The ones that were given are not even signed. I will give you another example which is part of the underlying root problem. The state law requires as does the bylaws "at the first meeting of each calendar year the commission shall elect from its own membership by majority vote a chairman, vice-chairman and a secretary/clerk." The fire association appoints two members to the fire commission, the county commissioners appoint two members and the four of those choose a fifth. The statute requires that there be an election among the commission each year and I cannot find one election in these minutes. Mr. Smith has just continued to be the chairman without an election. These are the problems. They need correcting. I realize that these kinds of things can't be corrected now. It is my feeling after practicing law for 33 years a lot of the problems that are happening on a day to day basis go to the underlying lack of communication and the underlying problems of not adhering to what was set up. I have had different fireman and different chiefs say to me 'we want to do away with the commission' and Paul agrees with me there will be people in here that don't agree but this is a good system. Someone thought through this and put something in place that can work but it is not working because laws are not being adhered to. I realize that part of the thing from last Thursday night was because of my not being here but I feel like somebody on the fire commission should have raised their hand and said the Avery Fire Association is having their annual meeting tonight. It is just common courtesy to pick up the phone and say to the people you are asking can you come. There was no such miscommunication between Paul and everybody about what that meeting was for it just got down right laughable and I don't believe anyone was lying I don't think anyone knew what the other was doing. There was just no coordination. I think the coordination should be coming from the fire commission and it is not. There is bad blood there. It is not working. It looks to be a good system but it needs work and that work is not going to be accomplished tonight. What we are trying to do is get all of this out in the open and hopefully move forward. In my opinion, reading all of these minutes there is a violation of the open law meetings. There have been closed sessions and meetings between fire commission members. It really needs some work. I see this as the job of the fire commission to be advocates of the departments and be the liaison with you all. The contract that the departments were handed the departments were not given an opportunity to make recommendations; I am not talking funding. They were given this contract and listen to the language of part of it. This is the chain of command language. 'In accordance with the standard operating guidelines, the chain of command for firefighters will be as follows: Fire chief first, fire department coordinator second and the fire commission third. At any time for certain disciplinary reasons, the fire department coordinator may supersede the chain of command.' That is ridiculous legal language not for cause or for what but any time I feel like it I can step in and supersede the chain of command for disciplinary reasons. This is the kind of language that is in the 2013 contract that was handed to these departments like children; you don't get any money or get an opportunity to speak back or bring attention to the fire commission or commissioners that it has come to this. The basic thing tonight and Paul is going to go over the individual things. I will be glad to answer any questions about anything I have said at this point. I feel like my job as being an advocate for the fire association is to look into all of this. We have now made this document available to each department. The departments need to see what they are supposed to be going by. There is a policy in here that is supposedly for how the fire commission meetings are supposed to be scheduled and procedures and how the departments are supposed to participate. Therein lies a

great deal of the problem. In my opinion, you have a good foundation and it can work but quite candidly after 3 years of being treated like children we are at the point we are at. We are asking to get everyone back operating and get an extension of the contract and then through smaller groups hammer out the differences and come up with a task force or groups that can implement what you have here and do it correctly. There needs to be an election. The fire commission is a member short. There are just problems that should not be handled between the fire association and the county commissioners. They need to be addressed by the people in the know and then worked on through the fire commission. I am available for any questions on this part of it. I will defer to Paul as the specifics about the operation and the problems that have arisen over the last couple of years and why the frustrations are where they are.”

Chairman Poteat stated that in my opinion what I have heard so far is this relates to communication or lack thereof. Ms. Hemphill said “ it is a lack of communication or some instances miscommunication and that there was a lack of respect for the men and women and departments and chiefs. They are told what to do. I have heard stories of micromanagement by the fire commission as if the chiefs don’t know how to run a department.”

Paul Buchanan, President of the Fire Association, stated “First and foremost if we don’t do anything else tonight I think we need to walk out of here with some type of contract extension because I don’t want to go back to our guys and say we don’t have anything. The state fire marshal office is going to be stepping in but we will operate until our last fundraiser penny is spent. I have some bulletin points and Ms. Hemphill alluded to one of them. We researched it back and I was happy to get this and I was very shocked that they have not voted on the chairman and the vice-chair and the secretary/clerk has been in the same position without being elected on. My next bulletin is communication and lack of communication and this is the biggest point of breakdown. We turn in our budget around the middle of February and prior to that there is a whole lot of work that goes into the budgets as I am on the Frank Volunteer Fire Department. We go into detail and for the last several years Frank has not asked for anything big. The Budgets go to the fire commission and basically we have to show the need for some equipment for some things that we ask for. The Fire Commission will look at the budgets and from there they start cutting the budgets and we have no more control over our budgets until it goes in front of you all and then we get handed the contracts and budget and this is what it is. We got this around June 20, 2013 in order to sign the contract before July 1, 2013. We decided in a meeting that we needed to discuss this with the fire commission and commissioners. We wanted to turn a contract in and didn’t want to quit providing service. We decided to change the contract and we could talk about it in the 6 months. July 1 came and there was no notification. It was all the way up to July 11, 2013 on the fire commission agenda and there was nothing on the agenda. I am sure they were aware of it. I was told in that meeting in a truck committee meeting by Mr. Smith that I had better tell the chiefs to get a new contract and I had better sign. It came time to receive the monthly check and we didn’t receive anything so a couple of the departments started asking and they were dangling the money over our heads. Myself and Chief Mathes were in a meeting of the Western Fire Association and we were approached by a representative of the State Fire Marshall Office saying that he was getting calls from Avery County that we were not under contract. We were never formally notified. It was partially our fault because we were doing the right thing to set forth a contract and it went by the wayside. We are turning in a reasonable budget to the fire commission and the fire commission is cutting our budgets and then they are turning it over to you and you are cutting again. There are a few things like what happened in the budget meeting just like the issue of the QRV’s from Frank, Elk Park and the Fire Department Coordinator getting a truck and there is other money setting in CD’s and I don’t know what all the Fire Commission has in their budget. It was told in the Fire Commission that the Elk Park and Frank QRV will not be bought but the Fire Department Coordinator is getting a truck. A lot of the chiefs are very concerned with the support of the paid employees even though the paid employees are through the Fire Commission. The employees are at the same level of county employees but they are not county employees. They are not receiving benefits the same way the county employees are. When the county employees get raises they don’t get raises, there is a double standard there. We have brought to the attention of the Fire Commission and Ms. Poore about the paid employee becoming a volunteer chief. It was told that if you are going to become a volunteer chief you can step away from your role as a paid employee”

Kathryn Hemphill said “Ms. Poore’s letter to Charlie Franklin April 2013 basically says that the existing personnel policy as it is written does not permit that to happen but she goes on to say that it can be rewritten to allow for it and other means to have that person to answer to someone else. The way it was written at the time did not permit it but she went on to say we could make it work.”

Paul Buchanan stated “We came back to the Fire Commission and they said that is not going to be the way it works. They said they did not want the chief being in the same role as a paid employee and the chief because they can actually control them by pay but they feel like that is the only reason he can become chief because they seem like they will be pulling puppet strings anyway. My last bulletin point is this “mess” of the truck titling and the building titling. No way or no how are we going to get to that

tonight. This is a subject in itself. That is one of the major concerns. We started in March with the joint meeting and between conflicts of scheduling we never got to that point. That needs to be in place before we sign a full year contract.”

Michaëlle Poore, County Attorney, stated that the original Memorandum of Understanding in 2003 was approved and then in 2012 the MOU was approved by the Board of Commissioners to bring in the rescue squads. Ms. Hemphill said the 2012 was not approved by the Fire Commission.

Kenny McFee, Green Valley Fire Chief, stated “I want to reiterate what Paul said about the paid people. Since the paid people have gone into effect they are the most important people in our community. They are the first ones on the scene. Whatever we can do to support them, we should. I feel like the Fire Commission has done things in the past to control them. Banner Elk and Fall Creek have lost their paid guys. I feel like there has been pressure put on some. The deal with the chief is unconstitutional. We have had issues with uniforms. They are the most important people.”

Dean Gibbs, Crossnore Fire Department Chief, stated “the biggest concern is some of the wording in the contract and budget cuts. Our department struggled last year with the budget.”

Bob Garland, Chief of the Ladder Company, stated “First of all I appreciate us being able to sit down and talk. These problems are not going to be completely solved tonight. The biggest problem we have is to do something about the funding and get contracts signed so the people of Avery County don’t lose the fire insurance because everyone could go to a 10. Our budgets this year, I know the county has to work within a budget and the fire commission has to work within a budget. For instance, we took a \$6000 cut from what we got last year. Last year we barely got by with what we had. How are we going to make it \$6000 less than last year? The rescue squad took a \$10,000 cut from last year and this commission wanted us to continue to open up a building at Elk Park and keep it operating on the same amount of funds that we got the year before. It costs more for gas and for everything. We don’t have a choice but to close that building down. Budgeting money, I understand. The Fire Commission has some money put up for trucks and things coming up to be bought; it is a sizeable amount but if you don’t have a fire department because you are underfunding the fire departments in this county and the rescue squad then there is no use in having the trucks. Whenever the fire commission was formed and I was here from the beginning, it was to be a liaison between the commissioners and the fire departments. We were told it was going to be so good because you tell them what you want and they are going to take care of what needs to be done with the county commissioners and set the fire tax so you can get the amount of money to do your job. If something is not done, there are a lot of chiefs in here that are ready to throw up their hands and quit. *I Am Responding* was cut out of the budget, internet service was cut out, grant monies were cut back. Think about the cuts and research them. Heating fuel was cut, truck maintenance was cut, fuel for trucks was cut. We are running mudslides, drownings, medical calls, etc. We might as well be DOT, sheriff’s department, etc. It is a lack of communication between you, us and the fire commission. We talk about things and we are supposedly going to take action on it but then we just sit around and don’t do anything. The paid people get caught in between. If it benefits the county and fire commission to not give them a raise because the county employees didn’t get one last year. This year the county employees got a raise but our paid guys are not county employees this time so we are not going to give them a raise. Whatever is convenient at the time is the way they are treated. Let’s get the rules set. I want to see us work these things out. First and foremost we need to get the contracts signed. Whenever people’s insurance goes up from \$300 to \$1000, we are all going to have trouble.”

Derrick Jaynes, Elk Park Fire Department Chief, stated “these other chiefs have summed up what I think also.”

Mark Taylor, Linville Fire Department Chief, said “It is difficult with everything going up for budgets to go down. There are all kinds of hats that each fire department wears and it is difficult to continue to operate.”

Bob Putney, Beech Mountain Fire Department Chief, stated “I have been in the business for 40 years and been a fire chief for 32 years. I have negotiated and signed a number of contracts over that period of time and when I came to Avery County I sat down and was told I had a number of contracts to sign and signed with Watauga County and the Town of Beech Mountain. When I got to the Avery Fire Commission the process was somewhat different I was told to sign it and bring it back. There was no communication. The first year I did that and the second year I came back to the budget hearing prepared. I had my 10 minutes before the Fire Commission and was asked one question “Why is it so expensive on Beech Mountain” and then I was told that they would get back to me. I got the same contract back on June 21, 2013 which came in the mail and the concerns that I raised in the meeting were not addressed. I supported the Fire Association in signing a 6 month contract because we were going to provide service to the citizens of Avery County regardless of a contract. In my previous experience when we had a contract negotiation, you would make amendments to the proposed contract

do the initialing and the other side would agree or disagree but there was a give and take. As of today, I have not heard a word. I sent the commissioners a letter expressing some of the concerns of Beech Mountain but more importantly trying to express concerns for the residents of Avery that currently do not have legal fire protection. We have a concern about the legality of that so with that said the lack of communication also is a concern. Beech Mountain has three contracts as I explained and do not have problems with the other two contracts. I think our problems are very similar to everyone else's here. It is a take it or leave it. I think the fire chiefs have reached the level where they said here is the 6 month contract we need to talk and that backfired because there was no talk. My last note is about the paid employee being the fire chief. I am an employee of the Town of Beech Mountain, I am also elected by the 49 members of the volunteer fire department as their fire chief and they see no problem with this. I don't think Avery should have a problem with that. A man or woman should not be asked to give up their job to be a volunteer fire chief. Thank you for having us here tonight because I think this is important."

Bobby Powell, Seven Devils Fire Department Chief, stated "We are like Beech Mountain. We have three contracts a year, Avery County contract, city contract and Watauga County contract. My concern with the contracts is the people that we serve. What this boils down to now is we have to think about the people that we serve in our communities. We don't want to stop that. We want to get our contracts in place now and fix these other problems. My biggest concern is to get the contracts extended because right now the way the state looks at it is we don't have a contract in place and if we have a line of duty death we could have serious problems. Another big thing is communications or lack of communication. "

Johnny Mathes, Frank Fire Department Chief, said "I think communications is the biggest issue. We need to work out something on the budget and contracts. Our guys spend a lot of time getting this rating down from a 9 to 7. We were told at Frank we would never do it because we don't have any hydrates but now we are right now a 7. We got a lot on the line that we are going to lose if we don't get our contracts signed. Hopefully, there is a way we can work out something tonight."

Gary Miller, Banner Elk Fire Department Chief, said "We have problems with financial and contractual issues. My big problem is employees; I think they deserve the same benefits as county employees, retirement, insurance and raises like the other county employees get. They should fall under the same rules and regulations of the county."

Chairman Poteat stated that he appreciated what everyone had to say. What was said will be taken seriously and I assure you that this will not be our final meeting.

Daryl Smith, Chairman of the Avery Fire Commission, stated "I would like for Joe, Danny and Johnny to chime in at any time. I am sure there are communication problems. A lot of the communication problems would probably go away if the firemen of the county attended the fire commission meetings. You would actually know what is said and what goes on instead of it being repeated from 4 to 5 people. Most of the issues that have come up tonight as Madame Attorney said are in the Memorandum of Understanding and that is what we try to go by. I do disagree with some of the things that were said. Charlie, has every department not been given a copy of this information." Charlie Franklin, Avery County Fire Department Coordinator, said "Every department has a copy of the personnel policy but I don't know that I have ever sent the Fire Commissions bylaws out. I think something that was a misunderstanding in the contract was about the chain of command. That chain of command is for the paid firemen and not the volunteer firemen. The Memorandum of Understanding and Bylaws have been on file in my office."

Daryl Smith said "As far as the meeting last week, the meeting was set up and agreed to by the President of the Association and set up by the county commissioners, the fire commission had nothing to do with that. To the best of my knowledge, I don't think the fire commission has ever had a meeting that wasn't posted on the board out here. You alluded to the fact that we had secret meeting; I would like to know when they were. Paul was on the fire commission for a year and I don't think he can dispute that fact. As far as the contracts, we can talk about them all night. Somewhere in the MOU it states that it will be done in accordance with the county's annual budget process which therefore eliminated a six month contract. Just for everyone's information when these contracts came back in I was in New York and so was Mr. Glenn Johnson; we both happened to be on the same bus tour. Charlie called me and told me. I told Glenn. Glenn called Mr. Poteat and I called Robert Wiseman, County Manager. We talked about this a little bit and said we would talk about it a little more when we got back on Monday which we did but we never really was given a lot of guidance on what to do about it and since the MOU said it needed to be in accordance with the county's budget process which was a yearly budget process and that is where I stood right or wrong. Micromanaging at the fire departments----I am sure there has been some down the line. There have been guidelines set up. These paid people have a list of priorities that they need to do during the day. The chiefs set that up. Budget cuts---there has been some budget cuts, fire commission has made budget cuts and this has been set down and discussed and gone back and reviewed last year's budgets. When the fire commission is working on budgets they go back and look at the monthly

reports from the previous year for each department. If you have \$10,000 in a line item and only spent \$1500 and you are asking for \$12,000 it is probably not going to happen because you are sitting on last year's money that you have not needed. If there is a problem in the department, the coordinator is going to talk to the chief about it and if nothing happens then the coordinator is going to step in. As far as the titles are concerned, as Ms. Hemphill eluded to, it says that anything purchased with tax money, grant money state or federal then it is the property of Avery County. My memory is not the best in the world but I really think that is the first time I have heard it mentioned of being with dual titles. Paid personnel being county employees or paid personnel employees---they started out as county employees when it first started out. We had a problem with one of the employees that worked for EMS at the time. The labor department found out about it, came in and told us if they remained employees of the county we would have to start paying over time for every hour that he was employed with us so we had to pay him overtime or fire him. So they were changed to fire commission employees. As Mr. Putney said, they do serve 2 counties on Beech Mountain and I may be wrong but they are funded more in Avery County than they are in Watauga County and run a lot more calls in Watauga County. Contracts---they are right, the contracts need something done about them. It is a situation where the fire commission is there for everyone to be "pissed off" at us and the fire departments get "pissed off" at us because they think we don't fight for them. The contract thing is a major issue right now. The budgets are what they are. That is what was approved in the budget and that is what it is until next year. Some of the budget figures you have to take into consideration there is another \$22,000 in grant money. Heating fuel---there is no way of knowing what the heating fuel cost will be or the truck fuel will be. We try to look at what has been spent and try to average it out. In 10 years that we have been here there was one instance that we came back to you and asked for more money and that was for heating fuel and the request was granted. Medical calls---In my opinion they spend 90% of their money doing EMS's job. If you are running 80% medical calls you are saving EMS a tremendous amount of money and that is where a majority of the money is being spent. It is taking the fire departments money to do it. Raises for paid employees---they did not get a raise this year. Last year or year before they got a huge raise. As a matter of fact, the commissioners turned the raises down and then we were told that it was not the intention of the board of commissioners to tell the fire commission how to spend the money so we gave them raises anyway. We try to keep the starting pay with what other counties are. Uniforms were brought up and we have purchased uniforms for them and we expect them to wear the uniforms; they are professionals."

Danny Clark, Fire Commission member, stated "Addressing the mission statement and bylaws given to the chiefs. I cannot speak for the last 4-5 years but at the formation of the fire commission which I was on at that time we had several meetings and had notebooks made at that time at the fire association meeting which did also include the legislation. At that time the fire commission members went to the fire association meetings every month and we had good communication but then there was some problems rose up and Junior got his dander up and I did and we stopped going to meetings. We do have a real problem with communication. The fire commission is at fault and the fire chiefs are at fault. As far as medical calls with EMS, I think it would be a benefit to the fire departments to get the equipment replaced that are used on the medical calls by EMS. That might be something to look into to let EMS replace the equipment."

Johnny Mathes, Fire Commission member, stated "At the lower end of the county it takes EMS quite a while to get down there, I hope we don't get to that point that we say a fire department is not going to have first responders."

Joe Perry, Fire Commission member, said "Communication is the biggest problem we have. We have two problems tonight that need to be solved immediately. We need the contracts signed for a year with me giving my word as a fire commissioner we will straighten up our act if you will go ahead and sign a year contract or agree to tonight and solve that problem. I know everyone of the chiefs and most of the firemen and there is not a finer bunch of individuals in the county than they are. They go beyond the call of duty in everything they do but they are the contrariest bunch of idiots you have ever seen in your life at the same time and that is your problem. We will agree to sign the contracts tonight and solve the problems tonight."

Daryl Smith said "On 8-1-2013 at 9:00 a.m. the fire commission had \$194,671.27 in the main checking account; in land and building fund \$130,000.53 which is in contingency for Frank's building; rescue checking \$114.09. We have 2 CD's \$24,955.46; second CD is \$76,423.40; debt reduction money which was used to pay off vehicles and purchase vehicles \$211,844.09. Total \$638,008.84. We tried to get contingency fund up to \$200,000 in case something happened to a truck. The majority of the debt reduction was dedicated to purchase vehicles with which the fire department coordinator vehicle was purchased. The truck that he was driving was from Emergency Management Department and the truck was dangerous. We pulled the money out of debt reduction to get a truck that he would not get killed in before he got home. Part of that money we had discussed buying a new equipment truck to replace their air truck and we had sent a committee to Pennsylvania and was ready to buy it until the contract issue

came up and when it came up we stopped it. If the truck is still available and the contracts get signed, I imagine it will be the choice of the fire commission to go ahead and buy the truck. One of the other big issues was the truck lease and you have a copy of that. I don't think anyone has a problem with both names on it. I personally feel and the fire commission as a whole feels that they need to be titled to the fire commission in case something happens that there won't be a big legal battle. It can happen. We had two departments in the last year if the insurance people had walked in they would have given them 6 month or a year to get the membership up or they would have moved them back to a 10. It was not necessarily a money issue that was creating the problem. Volunteers are hard to get. We are in the process of doing a pay per call program which we hope will help this problem. This should be ready in November. We did not fund "I am Responding" because the commissioners took it out last year. When it came back up this year and the fire association wanted us to pick it up we didn't feel like we had the money to pick up because some of the figures had changed considerably. Hopefully we covered everything. If not, we will try to answer it."

Chairman Poteat stated "It was said at the beginning of the meeting the real serious issue tonight is continued service without the state stepping in. That is all of the hopes in this room. We are all in the same boat. If Junior Sluder did one thing he did teach me about the value of rating versus how much insurance you pay. He was correct in what he shared with me. I don't want the fine people of Avery County to lose that potential money. There are a lot of volunteers in this audience; these are the most important group of people in the whole country. We thank you from the bottom of our hearts. We have two attorney's present and I appreciate their presence. I am going to say something that Jake Owens said a few days ago that I wished it had not come to this. I will defend Paul on the meeting on Thursday night it was my decision as Chairman of County Commissioners that we do not have any further discussion until you had a chance to have your attorney present. There are too many questions to get resolution this evening. There are a total of 11 entities. 8 of 11 have not signed a one year contract; three have. Paul, your position as President of the Fire Association you certainly would be willing to sign a six month contract. Glenn and Daryl did call me while they were on vacation and none of us knew what to do."

Joe Perry said "If the departments will agree to a year contract, Charlie can write them a check as soon as it is signed and that part of the problem would be resolved."

Mr. Buchanan stated "I think we need to go to Plan B. Mr. Perry's word is as good as gold to me but I have these other chief's saying that we have to have a little leeway ourselves. In poker, if we show our hand before anyone else we are dead in the water right then. I think we need to have negotiations there."

Chairman Poteat stated "You are entertaining six month contract or less." Mr. Buchanan answered "he was not seeing any one shake their head no."

Chairman Poteat questioned the county attorney if this group could come to an agreement this evening to continue services could we change the language to allow it to be a six month contract and release the funds. Ms Poore stated that the contract could be modified to allow that.

Robert Wiseman, County Manager, stated "the allocations that were made official the first of July were for 2.4 million dollars. If we are going to enter into a six month contract we don't need to enter into a contract that gives everybody the right to delve into the funds in the first six months. We need to make sure it is not an open ended deal. If we are going for six months, cut the allocation in half and consider seriously the expenditure of funds for capital outlay. That is just good business."

Chairman Poteat stated "there does need to be dialogue. I want to form a committee tonight that involves the key players and I think six months is a sufficient amount of time to get the understandings in writing and adhered to and be open and honest with each and every one of us. I would think that the ones that did sign a year contract would be privy to those funds that were designated to them in their entirety." Tim Greene said that the way the funds are released is 1/12th of the operational funds. Daryl Smith stated that the budgets had been cut so hard in the past 4 to 5 years we have cut to the bone and there is no money stuck back. They have had huge increases in the amount of money that they get but as we know everything else has had huge increases. Call volume is up. They do not have extra money."

Danny Clark stated "they have had huge increases but they do have an employee at each station and they have no debt at this time. The fire departments gave up operating money to have paid employees and we are holding them at the same amount of operating money and yet the cost of items keep going up. When you put a paid employee in that station then every call that comes out the truck has to leave and there is actually fuel being used where before volunteers responded in their private vehicles. We have seen increases across the board in every line item for that paid employee being at that station. There are a lot more expenses now."

Paul Buchanan stated "Another thing that is a big concern is we have started receiving grant items and we have not opened anything up because we don't know if we have the ability to pay. If we are just talking about operating expenses and not get into the grants, then if we send back these grant items it would be a long time before we get a grant again."

Daryl Smith said "the grant items have been approved and the chiefs put their name on the line and said they have the money to pay this when they didn't so on top of the operational the grant money needs to be released. The way that works the invoices come to Charlie and Charlie pays for it up to the amount that the grant is approved."

Bob Garland stated "the pension fund needs to be included in this six month contracts. We also need to be assured the money for the month of July is also included."

Daryl said "In the memorandum of understanding that it includes if the contract is not signed by the first day of the month, the money for that month is forfeited."

Michaelle Poore, County Attorney, stated "I think that Ms. Hemphill and I can work on that. We will need to have an actual amendment to the MOU to cover this situation and allow for a six month contract if that is what the board wants to do for the fiscal year beginning July 1, 2013."

Daryl Smith said "this needs to be done immediately."

Michaelle Poore stated these are the amendments to be included: "There will be 6 months of operational funds paid 1/12th of the annual allocation; any grant payments that come in during the 6 months period; any pension fund allocations during the six month period and be retroactive to the beginning of the fiscal year."

Glenn Johnson questioned if at one time did we not talk about changing the charters that if a department went out of business for whatever reason that everything would automatically revert back to the county. Ms. Poore answered "that was a proposal by some of the fire departments at a meeting and nonprofit entities have to make an allocation for how their assets pass in the event that they dissolve but I think that one of the easiest ways would be to address that in the contracts."

Reo Griffith said "Under the 501C3 charitable organizations under Federal law if fire departments went out of business they couldn't just give to anyone that would have to go to another 501c3 charitable organizations. If you go back to the very first meeting December 2012, I brought this up and I was told that I did not have the correct information so now it has all come to this. If we all agree and come up with six month contract, we need to set up the committee meetings immediately and go full steam ahead until this is resolved."

Chairman Poteat said "we have a subcommittee and we will work toward all of the concerns. We have a lot of work to do. In my opinion, there should be 2 county commissioners, 2 persons from the fire association and 2 persons from the fire commission and the attorney's if needed which would be up to them and the county manager." Paul Buchanan agreed with this make up.

Chairman Poteat volunteered as a member for the subcommittee. Reo Griffith volunteered. Paul Buchanan and Bobby Powell volunteered for the representatives from the Fire Association. Joe Perry and Danny Clark volunteered for the representatives from the Fire Commission.

There will be a meeting scheduled of the Board of Commissioners and the Avery Fire Commission to approve the amendments to the MOU and approve the six month contracts.

Phyllis Forbes stated that she had confidence in this committee to do the job however if we start to get to this point again we need to come around to this table again and not wait so long.

Adjourn

Motion by Phyllis Forbes and second by Martha Hicks to adjourn this meeting at 8:17 p.m. Motion unanimously approved

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

ATTEST: _____
Cindy Turbyfill, Clerk

