

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Tuesday, January 3, 2017 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC.

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

Members Absent: None

Call To Order

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

Tim Phillips led prayer.

Wood Hall Young, Jr. led the Pledge of Allegiance

Chair Hicks read the following statement:

The time limit for any comment to the Board is three minutes. Board members are not expected to comment or take any action on matters during public comment. Any individual speaking during public comment shall address the entire Board. Any person who willfully interrupts, disturbs, or disrupts the session will be asked to leave the meeting. If you would like to speak to an agenda item, you must sign up on the sheet with the clerk. Time limit to speak to an agenda item is also three minutes. Please silence all cell phones or electronic devices.

Public Comment

There were no public comments.

Resolutions Regarding Avery County Board of Commissioners Policy Revisions

Tim Greene, County Manager, stated that the Board had a workshop on December 12, 2016 and there was very good discussion and out of the discussion came several resolutions that we will be talking about today.

Resolution Regarding Procedure for Election of Chair and Vice- Chair

WHEREAS, The Avery County Board of Commissioners has adopted a Board Policy;
and

WHEREAS, the Board desires to outline the procedure for the election of the Chair and Vice-Chair for the Avery County Board of Commissioners; and

WHEREAS, The Board finds that this will allow more efficiency with the administration of County government;

NOW, THEREFORE, BE IT RESOLVED that the Avery County Board of Commissioners meeting in regular session on the 3rd day of January, 2017, hereby amends the Section 4, Parliamentary Procedures, to add the following Section 4.1 (C):

C. Election of Chair and Vice-Chair.

1. Nominations for Chair and Vice-Chair shall not require a second to such nomination.

2. If there are more than two nominations for Chair or Vice-Chair, then at the close of nominations, there shall be an initial vote. If, after such vote, there is not a majority winner, then the nomination receiving the fewest votes shall be eliminated. Voting shall occur in successive rounds with the elimination of the lowest vote getter in each round. Voting shall continue until there is a majority winner.

The Board of Commissioners further authorizes the Chair to sign this resolution.

Motion by Faith Lacey and second by Wood Hall Young, Jr. to adopt the Resolution Regarding Procedure for Election of Chair and Vice-Chair. Motion unanimously approved.

Resolution Regarding the Powers and Duties of the Avery County Manager

WHEREAS, The Avery County Board of Commissioners is authorized under Article 5 of NCGS Chapter 153A, to adopt the county manager plan; and

WHEREAS, The Avery County Board of Commissioners has adopted the county manager plan and desires to give the County Manager, pursuant to NCGS §153A-82(1), the authority to appoint officers, employees and agents without first securing the board's approval, subject to the Manager making such appointments, suspensions, and removals in accordance with the Avery County Personnel Policy, and in accord with any regulations, policies or other ordinances adopted by the Board; and

WHEREAS, the Board Policy, Section 13 will need to be revised to reflect this change; and

WHEREAS, The Board finds that this will allow more efficiency with the administration of County government;

NOW, THEREFORE, BE IT RESOLVED that the Avery County Board of Commissioners meeting in regular session on the ___ day of _____, 2017, hereby permits the County Manager to appoint officers, employees and agents without first securing the board's approval pursuant to NCGS §153A-82(1).

BE IT FURTHER RESOLVED, that the Board Policy, Section 13.1(A), is hereby amended to read as follows:

A. shall appoint with the approval of the Board of County Commissioners and suspend and remove all county officers, employees, and agents except elected officials or appointments otherwise provided by law. The County Manager may appoint officers, employees, and agents without first securing the Board of Commissioner's approval.

The Board of Commissioners further authorizes the Chair to sign this resolution.

Motion by Wood Hall Young, Jr. and second by Blake Vance to adopt the Resolution Regarding the Powers and Duties of the Avery County Manager. Motion unanimously approved.

RESOLUTION REGARDING THE BOARD POLICY SECTION 19 FOR THE AVERY COUNTY BOARD OF COMMISSIONERS

WHEREAS, The Avery County Board of Commissioners has adopted a Board Policy; and

WHEREAS, said Policy includes policies that are set for in the Avery County Personnel Policy; and

WHEREAS, the Board desires to clarify the language of Section 19 (D);and

WHEREAS, the Board finds that the following language clarifies the policy:

Nothing herein shall require the retroactive approval under *Section A* of existing employees upon a relative becoming an Elected Official, subject to the provisions of State law(s).

NOW, THEREFORE, BE IT RESOLVED that the Avery County Board of Commissioners meeting in regular session on the 3rd day of January, 2017, hereby amends Section 19 (D) such that paragraph D of Section 19 reads:

D. Elected Officials:

Elected Officials are required to adhere to State law(s) on the employment of relatives and **must** adhere to *section A* as stated above before employment of a relative will be authorized.

Nothing herein shall require the retroactive approval under *Section A* of existing employees upon a relative becoming an Elected Official, subject to the provisions of State law(s).

The Board of Commissioners further authorizes the Chair to sign this resolution.

Motion by Blake Vance and second by Tim Phillips to adopt the Resolution Regarding the Board Policy Section 19 (D) (Elected Officials).

VOTE: 4 to 1.

**For---Martha Hicks; Tim Phillips; Blake Vance; Wood Hall Young, Jr.
Against---Faith Lacey**

Resolution Regarding the Removal of Sections 24, 25, & 26 to be placed in the Standard Operating Procedure Manual

WHEREAS, The Avery County Board of Commissioners has adopted a Board Policy Manual; and

WHEREAS, said Policy includes policies pertaining to personnel; and

WHEREAS, the Board desires to eliminate these items in its Board Policy;

NOW, THEREFORE, BE IT RESOLVED that the Avery County Board of Commissioners meeting in regular session on the 3rd day of January, 2017, hereby removes Sections 24, 25 and 26 of the Policy Manual for the Avery County Board of Commissioners and authorizes the County Manager to place such items in their appropriate sections in the Standard Operating Procedure Manual pertaining to Personnel.

The Board of Commissioners further authorizes the Chair to sign this resolution.

Motion by Wood Hall Young, Jr and second by Blake Vance to adopt the Resolution Regarding the Removal of Sections 24, 25, & 26 to be placed in the Standard Operating Procedure Manual. Motion unanimously approved.

Resolution Regarding the Avery County Personnel Policy Article V, Section 4 (Secondary Employment)

WHEREAS, The Avery County Board of Commissioners has adopted a Personnel Policy; and

WHEREAS, the Board further finds that the Personnel Policy provides in Article V, Section 4 the following:

Section 4. Secondary Employment

The work of the County shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the County Manager. The County Manager will review such employment for possible conflict of interest and then approve or disapprove the secondary employment. The County Manager may choose to delegate such approval authority to department heads. Documentation of the approval of outside employment will be placed in the employee's personnel file.

Examples of conflicts of interest in outside employment *include but are not limited to:*

- a) employment with organizations or in capacities that are regulated by the employee or employee's department; or
- b) employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's County duties.

Off the job injuries: An employee who sustains an injury or illness in connection with outside employment and is receiving Workers' Compensation from that employer shall not be eligible to use accrued sick leave.

And

WHEREAS, the Board desires to change said policy;

NOW, THEREFORE, BE IT RESOLVED that the Avery County Board of Commissioners meeting in regular session on the 3rd day of January, 2017, hereby strikes Article V, Section 4 of the Personnel Policy and adopts in its place the following Article V, Section 4:

Secondary Employment

The work of the County shall take precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment shall not create a conflict of interest or otherwise be incompatible with County service. In the event that an employee is unsure if a conflict of interest exists, then the employee must report such outside employment in writing to the employee's Department Head before such work is to begin. The Department Head, corresponding appointing authority or the Human Resources Director shall determine whether the outside work would create a conflict of interest or otherwise be incompatible with County service. The assumption of secondary or outside employment which creates a conflict of interest may be deemed improper conduct and subject the employee to disciplinary action, up to and including dismissal.

An employee who sustains an injury or illness in connection with outside employment and is receiving Workers' Compensation from that employer shall not be eligible to use accrued sick leave.

The Board of Commissioners further authorizes the Chair to sign this resolution.

Motion by Blake Vance and second by Tim Phillips to adopt the Resolution Regarding the Avery County Personnel Policy Article V, Section 4 (Secondary Employment). Motion unanimously approved.

Resolution Regarding the Avery County Personnel Policy Article V, Section 6 (Employment of Relatives)

WHEREAS, The Avery County Board of Commissioners has adopted a Personnel Policy; and

WHEREAS, The Board finds that the existing Personnel Policy in Article V, Section 6 provides the following:

Employment of Relatives

The County prohibits the hiring and employment of immediate family within the same department if such employment will result in one member supervising the other or in one member occupying a position that has influence over the other's employment, promotion, salary administration or related management or personnel considerations. The Board of Commissioners may waive this limitation by unanimous vote of the Board. "Immediate Family" is defined in Article I, Section 5.

Otherwise, the County will consider employing family members or related persons in the service of the County, provided that such employment does not:

- a) result in a relative supervising relatives;
- b) result in a relative auditing the work of a relative;
- c) create a conflict of interest with either relative and the County; or
- d) create the potential or perception of favoritism.

This clause shall not be retroactive concerning any relative currently working for the County or anyone who has filed for election at the time of adoption. However, it does require that an employee resign within six months should an immediate family member be elected to County Commissioner.

And

WHEREAS, the Board desires to change said policy;

NOW, THEREFORE, BE IT RESOLVED that the Avery County Board of Commissioners meeting in regular session on the 3rd day of January, 2017, hereby strikes Article V, Section 6 of the Personnel Policy and adopts in its place the following Article V, Section 6:

Employment of Relatives

No two members of an immediate family (as defined in Article I, Section 5) shall be employed within the same department if such employment shall result in one member supervising the other or in one member occupying a position that has influence over the other's employment, promotion, salary administration, or related management or personnel considerations.

The provisions of this section shall not be retroactive, and no action will be taken concerning members of the same family employed in conflict with this section before the adoption of this policy.

The Board of County Commissioners shall approve the appointment by the Sheriff or the Register of Deeds of a relative by blood or marriage or nearer kinship than first cousin as required by Chapter 153A-103(1) of the North Carolina General Statutes.

For purposes of this Article V, Section 6, members of the Board of County Commissioners are not considered as being "employed" herein.

The Board of Commissioners further authorizes the Chair to sign this resolution.

Faith Lacey stated that the Young versus Bailey statute says the Sheriff is his own boss. We don't have any say so that should be struck out. The commissioners cannot tell him what to do.

Sheriff Kevin Frye advised that there was a general statute though that says if I am hiring a relative I have to get permission from the board of commissioners; if it is a relative closer than a first cousin.

Michaelle Poore, County Attorney, stated that his specific general statute requires the Sheriff come to the Board for approval if it is a relative closer than first cousin.

Motion by Blake Vance and second by Wood Hall Young, Jr to adopt the Resolution Regarding the Avery County Personnel Policy Article V, Section 6 (Employment of Relatives).

VOTE: Motion passes 4 to 1.

**FOR---Martha Hicks; Tim Phillips; Blake Vance; Wood Hall Young, Jr
AGAINST---Faith Lacey**

Resolution to Establish the Avery County Recreation Advisory Committee

Mr. Greene stated that the consensus of the Board at the recent workshop was to reestablish a Recreation Advisory Committee which would help to try to secure grants for the swimming pool project.

WHEREAS, The County of Avery is authorized to establish local government citizen advisory committees; and

WHEREAS, The County of Avery desires to establish a citizens advisory committee to provide input regarding matters pertaining to Avery Parks and Recreation to better serve the citizens of Avery County; and

WHEREAS, such citizens advisory committee should have a policy;

NOW, THEREFORE, BE IT RESOLVED that the Avery County Board of Commissioners meeting in regular session on the ___ day of _____, 2017, hereby establishes the Avery County Recreation Advisory Committee and adopts that policy for the same attached hereto.

The Board of Commissioners further authorizes the Chair to sign this resolution.

Motion by Blake Vance and second by Tim Phillips to adopt the Resolution to Establish the Avery County Recreation Advisory Committee. Motion unanimously approved.

Mr. Greene stated that the Mission Statement for the Avery County Recreation Advisory Committee also needed to be adopted. Mr. Greene read the Mission Statement as follows:

The Mission of the Recreation Advisory Committee is to serve as the advisory body for the Avery County Parks and Recreation Department. The Committee, in conjunction with the Recreation staff, shall develop and suggest policies for the Department to the head of the Parks and Recreation Department. The committee may advise on matters affecting recreation policies, program, personnel, finances, conflict resolution and the acquisition and disposal of lands and properties related to the overall community recreation program, and to its long range project program for recreation.

Input from the Advisory Committee serves as a critical component in all grant applications

Motion by Tim Phillips and second by Faith Lacey to adopt the Mission Statement for the Avery County Recreation Advisory Committee as presented. Motion unanimously approved.

Tax Administrator Report – Phillip Barrier
Tax Collections Report

The Tax Collection Report for the month of December 2016 is \$4,276,800.66.

Motion by Blake Vance and second by Tim Phillips to approve the Tax Collection Report for the month of December 2016 as presented. Motion unanimously approved.

Regular Releases

The Regular Releases for the month of December 2016 is \$389.52.

Motion by Faith Lacey and second by Blake Vance to approve the Regular Releases for the month of December 2016 as presented. Motion unanimously approved.

Mr. Barrier reported the sales statistics.

Resolution Regarding the Appointing of a Special Board of Equalization and Review

WHEREAS, the Avery County Board of Commissioners, pursuant to N.C.G.S.

§105-322, have determined to appoint a special Board of Equalization and Review for 2017; and

WHEREAS, the Board of Commissioners have determined that the qualifications for membership of the Board of Equalization and Review shall be that such individuals shall be owners of property located within Avery County, shall be eighteen years of age or more, shall be citizens and residents of Avery County, and that all shall take the oath of office as prescribed by N.C.G.S. § 105-322 and shall otherwise qualify as required by Article 21 of Chapter 105 of the North Carolina General Statutes.

BE IT FURTHER RESOLVED that membership of said special Board of Equalization and Review shall be determined by the solicitation of applications from qualified applicants for said Board of Equalization and Review, and that their term of office shall continue throughout the calendar year of 2017 as prescribed by N.C.G.S. §105-322, and for such extended times as therein provided, at the rate of eight dollars (\$8.00) per hour.

BE IT THEREFORE RESOLVED that any vacancies which shall exist in the Board of Equalization and Review shall be filled by the then remaining members of the Board by simple majority vote from a list of three names from the list of qualified applicants who are not selected for primary membership in the Board of Equalization and Review, said names to be provided to the remaining members of the Board of Equalization and Review by the County Tax Assessor.

BE IT FURTHER RESOLVED that any appeals any taxpayer may file before the Board of Equalization and Review shall have the right to appeal the decision of the Board of Equalization and Review to the Property Tax Commission of the Department of Revenue for the State of North Carolina.

Motion by Wood Hall Young, Jr and second by Blake Vance to adopt the Resolution regarding appointing a Special Board of Equalization and Review. Motion unanimously approved.

C&D Landfill Feasibility Study – Eric Foster

Mr. Greene stated that back in 2008 Smith Gardner, who is the engineering firm, did a feasibility study to see if we were running out of the construction and demolition space. We determined at that time that we wanted to open up more cells and continue taking C&D instead of hauling it. Over the last eight years that is what we have done. In last year's budget, we had money in the budget to open up a new cell which is usually about an acre or less. When we took bids for the new cell it was quite a bit over what we had budgeted for. So we decided to look at this since it is so expensive to open up the cells and maybe get another feasibility study to see if it makes sense to continue operating the C&D landfill or close it temporarily and start hauling it. The engineer would look at this and tell us our options. The issue as we continue going into phase 4 we are going further up the hill and the further we go up the hill the big problem is controlling the water.

Tim Phillips questioned if there was a comparative cost to haul the C&D.

Mr. Greene stated that the feasibility study would do this. The engineer would work up a draft and then Eric and I would look at this and then we would present it to the full board.

Mr. Phillips questioned if the C&D was hauled could the land be used for anything else.

Mr. Greene stated no. Eric Foster stated that the C&D landfill can be left in an inactive state and the permit would still be good. Mr. Greene stated that we are recommending that this feasibility study be done.

Motion by Blake Vance and second by Wood Hall Young, Jr. to approve allowing the County Manager and Solid Waste Director to engage the engineers to do a feasibility study at the C&D Landfill. Motion unanimously approved.

County Manager Updates – Tim Greene

Electronic Board Communications

Mr. Greene stated that another thing the Board discussed at the workshop was something like Ipads to have board agendas on so that the commissioners could have everything with them at all times. With that I was instructed to get some quotes. There are different sizes of Ipads. Wood Hall Young, Jr. stated that the larger screens would be better. Blake Vance suggested larger memory also. Mr. Greene thought that these could come out of the Available for Appropriation line item. Mr. Vance stated that the ink and paper on the packets we get now is approximately \$3,000 per year plus the many hours that is put in doing these packets so these would pay for themselves in a short amount of time.

Motion by Blake Vance and second by Tim Phillips to authorize the County Manager to proceed with purchasing Ipads with the larger memory and larger screens.

VOTE: Motion passes 4 to 1.

FOR---Martha Hicks; Tim Phillips; Blake Vance; Wood Hall Young, Jr.

AGAINST---Faith Lacey

Section 2- Procedures Regarding Agenda

Mr. Greene stated that there had been some question about how we go about doing the agenda and he had the County Attorney look at that. Mr. Greene stated that there was some question on how the policy gets set. Currently, the County Manager sets the agenda and of course if a commissioner wants something on the agenda they just bring it to me otherwise it is up to the Manager to set the agenda. Ultimately, it is the Board's agenda. If you want to change that you can but currently it is now the Manager setting the agenda. Chair Hicks stated she thought the policy was clear.

Avery County Recreation Advisory Committee

Mr. Greene stated that there needed to be a motion to add this committee to the Board Policy.

Motion by Blake Vance and second by Tim Phillips to add the Avery County Recreation Advisory committee to the Board Policy. Motion unanimously approved.

Recess

Chair Hicks called for a brief recess.

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

Finance Officer Report – Nancy Johnson

Budget Amendment

The Avery County Sheriff's Office requests a budget amendment for grant funds received from NC Department of Public Safety—Governor's Crime Commission to be used for equipment.

Motion by Faith Lacey and second by Blake Vance to adopt the Budget Amendment for grant funds received from the Governor's Crime Commission with a debit of \$24,492.00 to Crime Control Grant – Equipment (105100.7420) and a credit of \$24,492.00 to Crime Control Grant (103611.0000). Motion unanimously approved.

Budget Amendment

The Avery County Sheriff's Office requests a budget amendment for adding one position for a drug officer and making a part-time administrative assistant full-time.

Motion by Blake Vance and second by Faith Lacey to adopt the Budget Amendment regarding adding one position for a drug officer and making a part-time administrative assistant full-time with a debit of \$14,500.00 to Salary-Deputies (105100.0220); a debit of \$20,000.00 to Salary-Detectives (105100.0230); \$2,650.00 to FICA (105100.0500); \$2,680.00 to Retirement (105100.0600); \$14,625.00 to Group Insurance (105100.0700); \$1,000.00 to 401K (105100.0800) and a credit of \$55,455.00 to Inmate Housing (103525.0000). Motion unanimously approved.

Appointment of Auditor

The Avery County Board of Commissioners need to appoint an auditor for the upcoming year and the request is that the Board approve Young, Miller, & Gillespie, P.A. to audit the financial statements for the County of Avery as of and for the year ending June 30, 2017. The audit will begin in July 2017 and the report will be issued no later than October 31, 2017 at a price not to exceed \$36,400. This price represents no increase from the prior fiscal year. The price also includes the Fire Commission Audit.

Faith Lacey stated that the Board Policy says that in selecting an accountant the Board of Commissioners shall publish a notice of intent to receive proposals for the audit of the financial statements of Avery County. This notice should be published in a newspaper of general circulation at least four weeks prior to the selection of an accountant for the next year. According to our policy we need to advertise.

Mr. Greene stated that is only if we decide to make a change. When we last did a proposal we contracted with them for three years.

Ms. Lacey stated that the policy also suggests that the accountant be changed every five years.

Mr. Greene stated that in reference to advertising that was only when selecting the accountant. We are just reappointing them. We can have the County Attorney look at this and make sure we are in compliance with the Board policy.

Blake Vance said it only suggests that we change every five years and I say that we let them do the next two years.

Motion by Tim Phillips and second by Wood Hall Young, Jr. to table this appointment until further investigation of the policy. Motion unanimously approved.

County Attorney Report – Michaele Poore

Ms. Poore stated that she had discussed with the County Manager two things that they should have some more information about at the next meeting. One would be a technology policy since Ipads have been approved and the other is Section 11 of the board policy.

Closed Session

Motion by Wood Hall Young, Jr. and second by Blake Vance to go out of Regular Session and into Closed Session regarding NCGS 143-318.11 (a)(5) Acquisition of Property at 5:24 p.m. Motion unanimously approved. Invitees are the Manager, Board, County Attorney and Clerk.

Chair Hicks declared the meeting to be back in Regular Session after a time of Closed Session at 6:02 p.m. During closed session, no vote was taken.

Consensus by the Board for the County Manager to look at other locations for the Agricultural Extension Building.

Appointment of Auditor

Blake Vance stated that before Closed Session the Board had tabled the appointment of the auditor. Mr. Vance read from the Avery County Board of Commissioners Policy. He said the policy is very clear that we do not have to consider this every four years and

we do not have to advertise every year. Ms. Poore stated that there was nothing in there that requires re-advertising.

Motion by Blake Vance and second by Wood Hall Young, Jr. to reconsider the Appointment of the Auditor that was previously tabled.

VOTE: Motion passes 4 to 1.

FOR—Martha Hicks; Tim Phillips; Blake Vance; Wood Hall Young, Jr.

AGAINST---Faith Lacey

Blake Vance stated that there was no statute requiring us to change accountants and actually the Board policy recommends a long term relationship with an accountant.

Motion by Blake Vance and second by Wood Hall Young, Jr. to reappoint Young, Miller, & Gillespie, PA as the auditors for Avery County.

VOTE: Motion passes 4 to 1.

FOR—Martha Hicks; Tim Phillips; Blake Vance; Wood Hall Young, Jr.

AGAINST---Faith Lacey

Approval of Minutes

Motion by Wood Hall Young, Jr and second by Blake Vance to approve the December 5, 2016 Regular Session Minutes. Motion unanimously approved.

Agenda Consent Items

Adopted by Consensus of the Board.

Upcoming Meetings

The Board will meet with the Board of Education January 17, 2017 at 5:00 p.m.

The next Regular meeting will be February 6, 2017 at 3:30 p.m.

Adjourn

Motion by Blake Vance and second by Wood Hall Young, Jr. to adjourn this meeting at 6:16 p.m. Motion unanimously approved.

Martha Hicks, Chair
Avery County Board of Commissioners

ATTEST: _____
Cindy Turbyfill, Clerk

