

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
BOARD OF COMMISSIONERS
REGULAR SESSION – MAY 12, 2008**

ASSEMBLY

The McDowell County Board of Commissioners met in regular session at 4:00 p.m. on Monday, May 12, 2008, in the Commissioners' Board Room, the usual place of meeting. The Board had agreed to meet one hour earlier to conduct business prior to recessing for the presentation and dinner with Cooperative Extension Service.

MEMBERS PRESENT

Andrew K. Webb, Chairman; David N. Walker, Vice-Chairman; and Barry E. McPeters

THOSE ABSENT

Dean Buff (Sick)

OTHERS PRESENT

Charles R. Abernathy, County Manager; Carrie Padgett, Clerk to the Board; Ashley Wooten, Assistant to the County Manager (Video); Fred Coats, County Attorney; and Mike Conley, Reporter for THE McDOWELL NEWS

CALL TO ORDER

Chairman Andrew Webb called the meeting to order. The invocation was given by Commissioner Lavender, followed by the pledge of allegiance, led by Commissioner McPeters.

APPROVAL OF MINUTES

Minutes of the March 10, 2008 and the April 14, 2008 regular sessions were presented for approval.

Upon motion by Commissioner McPeters and a second by Commissioner Walker, the minutes were unanimously approved as recorded.

APPROVAL OF AGENDA

Commissioner Walker made a motion to approve the agenda as presented. Commissioner McPeters seconded the motion and the vote was unanimous.

BUDGET AMENDMENTS/DSS COMPUTER PURCHASE/DOT REIMBURSABLE AGREEMENT

The County Manager presented the following budget amendments (#40, #41, and #42, and ECO1) for the Board's approval:

Amendment #40 – Primarily for the purchase of lap top computers for the DSS, with funds to come from within the DSS budget.

Amendment #41 – Facility Maintenance, the primary issue being in the Buildings and Grounds line item due to several unexpected breakdowns including five different air or heating units in various buildings, courtroom renovations and roof repairs, with a general increase in the scope and overall maintenance.

Amendment #42 – Economic Development – To allocate revenue which allows the County to meet its obligation in relationship to PRC, Inc.

Amendment ECO1 – Economic Development – To allocate funds for grading and grant revenue

A brief discussion followed.

Upon motion by Commissioner Walker and a second by Commissioner Lavender, budget amendments #40-42 and ECO1 were approved by a unanimous vote.

Concerning item #2, the County Manager explained the Reimbursable Agreement Program with D.O.T. had previously been used before whereby D.O.T. makes improvements to public entity property with funds being directed through the County. He advised that in this particular case, the Sugar Hill Fire Department, in cooperation with the Elections Department, had been approved for a project that would involve the resurfacing of a parking area and the provision of a handicap ramp.

Commissioner Lavender made a motion to approve the Reimbursable Agreement with D.O.T. as presented. Commissioner Walker seconded the motion and the vote was unanimous.

EMS PLAN AMENDMENT/MODEL PROGRAM

EMS Director William Kehler advised the NC Office of EMS requires that each EMS system update their EMS plan once every four years, and that McDowell County's EMS ambulance license is up for renewal in January 2009. Prior to this, EMS systems must ensure that the plan meets all current standards. Therefore, he presented the

necessary amendments to McDowell's EMS Plan which would bring them into compliance and would, in his words, "position us for our designation as a Model EMS System".

In a brief overview, Mr. Kehler stated the proposed changes to the EMS System Plan included the addition of a hospital diversion plan, a mass gathering plan, and rules governing response time and procedures, with an updated Emergency Operational Plan and a plan for injury prevention programs and public awareness. Also, these changes updated their operational protocols for standard operating guidelines, an infection control plan, and a respiratory fitness program, and included the addition of a renewed FCC license for communications. The Plan contains updated contact information for quality assurance for the medical oversight committee and hospital administration, a revised training program and calendar, and changes the document's current methods for data collection standards in tracking the delivery of patient care and for billing programs that are utilized. Proper contact information reflecting EMS administration changes and the 2007 updated medical protocols were attachments to the Plan.

A brief discussion followed.

Commissioner Lavender made a motion to approve the proposed changes to the EMS System Plan as presented. Commissioner Walker seconded the motion and the ayes carried unanimously.

OLD HIGHWAY 70 MAINTENANCE AGREEMENT

In place of Trails Association President Bill Hendley who was to appear, Frank Dean came before the Board for discussion of the proposed Maintenance Agreement for Old Highway 70.

Mr. Dean advised the Trails Association would join in a partnership with McDowell County and the Department of Transportation for maintenance of the Old 70 West roadway, to be named "Point Lookout Trail".

The County Manager explained there was information in the agenda packet related to this item concerning designating the McDowell House property as part of the Overmountain Victory Trail Designation. He pointed out, from past experience, it would take months and months to get Forest Service involvement in this project and felt it would be best if the County proceeds on its own. He asked, if the Board would agree, that approval be given for submission of an attached application.

Commissioner Lavender noted some vagueness as to who will be responsible and suggested an addition to say that a given group will be responsible for—(list specific duties) in order to have an exact commitment.

Commissioner Walker made a motion to approve the Point Lookout Maintenance Agreement as presented. Commissioner McPeters seconded the motion and the vote was unanimous.

Chairman Webb mentioned that the McDowell House Committee had recently met and briefly noted the trip to Washington that he, Commissioner Buff, and the County Manager had made last week in an effort to seek funding for this project. Mr. Dean made mention of Paul Carson and his efforts, saying a trip was planned to Abingdon, Virginia to see a model, if the Board wished to join them.

Again, Mr. Abernathy advised the McDowell House property needed to be submitted as a project for the Overmountain Victory Trail.

Commissioner Lavender made a motion to authorize submission of the application for this property as a project for the Overmountain Victory Trail. Commissioner McPeters seconded the motion and the vote was unanimous.

ARC GRANT REQUIREMENT REVIEW AND DOCUMENT APPROVAL

The County Manager advised he had met this date with Marvin Hutchinson of USDA – Rural Development concerning requirements involved with the receipt of funding from the Appalachian Regional Commission for the Sherwood Forest project. One item required was the adoption of a resolution by the Board of Commissioners. He said the bottom line was this would fund half the Sherwood Forest project.

Ashley Wooten, Assistant to the County Manager, briefly addressed the process, noting some of the items yet to be done prior to starting the project.

The following resolution was adopted by motion as stated herein:

BE IT RESOLVED

That the Board of Commissioners of McDowell County (hereinafter referred to as the “Board”) accepts the conditions set forth in a Letter of Condition dated May 12, 2008.

That the “Board” authorizes the Chairman and Clerk to execute all forms necessary to obtain a grant from the Rural Development, including, but not limited to the following forms:

| | |
|-----------------|---|
| Form Rd 1942-46 | Letter of intent to Meet Conditions |
| Form RD 400-4 | Assurance Agreement |
| Form RD 400-1 | Equal Opportunity Agreement |
| Form RD 1940-1 | Request for Obligation of Funds |
| Form AD-1047 | Certification Regarding Debarment |
| Form AD-1048 | Certification Regarding Debarment (lower tier trans.) |

Form AD-1049
Form RD 442-12

Drug Free Workplace Certification
Processing Checklist (Public Body)

The resolution to become a part of the official minutes of the Board of Commissioners meeting held at 4:00 PM on May 12, 2008. Motion made by Commissioner McPeters and seconded by Commissioner Lavender that the Resolution be approved. Motion passed four for and none against.

TO BE MADE A PART OF THE MINUTES DATED MAY 12, 2008.

INTERLOCAL AGREEMENT WITH CITY

The County Manager reviewed past action of the Board regarding the Interlocal Agreement with the City of Marion, noting that a consensus had been reached by both parties. He explained what the changes were, noting the letter from Anna Mitchell, Assistant Director of the Sales and Use Tax Division, dated May 2, 2008. He noted the financial impact to the City and gave an overview of the agreement and in so doing pointed out this is as a result of the loss we experienced when the City annexed the Prison.

A general discussion followed on the desired term of the Agreement, opportunities to negotiate, etc., with Mr. Abernathy pointing out that he felt a shorter term was best. He addressed the issue of flushing of lines, noting that within the Utility Committee meetings they have felt like there have been answers to the problems that are created by lines being flushed and that those need to be implemented. They are now being implemented, fees are no longer being charged and the problem is solved. Further, Mr. Abernathy noted that 2-3 months ago there was a very rough draft of an agreement with Burke County on the agenda. He said there was some difficulty regarding the price; the price has been lowered to the point that if the County is able to work out an agreement with them, it will not be an issue, and we can then convey water to another governmental entity at a minimal cost.

Chairman Webb said there are other issues that would need to be dealt with, but he wanted to make this transition easier for the City than it was with the County when the State of North Carolina took funds from us in 2004. He said they are in the budget process just as we are and he felt when you show firmness along with fairness, in the long term, it pays off.

Discussion of other issues followed.

Commissioner Walker made a motion to approve the Interlocal Agreement with the City of Marion as presented, with adjustments being made after one year, or earlier if desired. Commissioner McPeters seconded the motion.

Commissioner Lavender commented on the one-year term and the aspect of changing, and then offered an amendment to ask that they agree to negotiate. Discussion followed.

When put to a vote, the motion carried 3-1 as follows:

Ayes: Commissioner McPeters
Commissioner Walker
Commissioner Webb

Nay: Commissioner Lavender

SHERIFF'S REPLACEMENT/SIDE ARM AND BADGE/RESOLUTION

Vance Caudle, Chairman of the Republican Party in McDowell County, came before the Board to announce the Party's recommendation for the replacement of retiring Sheriff Jackie Turner. First, Mr. Caudle thanked Sheriff Turner for his fourteen years of service during which he had done an excellent job, noting he had set a standard for all to follow. He said there had been very little repercussion although there had been some glitches along the way, such as the meth labs about which the Sheriff's Department had been proactive.

Sheriff Turner expressed his appreciation for the opportunity to have served McDowell County as its Sheriff and to have witnessed the accomplishments made. He thanked the Board of Commissioners for being so willing and able to find the resources to help him in accomplishing certain things which he had seen happen over the years. He noted in particular the School Resource Officers and the enhancements that had been made in Courthouse security. The Sheriff stated he appreciated the Commissioners, both individually and as a Board, and he was confident they are a very capable and responsible Board. He also thanked County Manager Chuck Abernathy for his help in solving some of the problems he had encountered. The Sheriff said he would be by to visit from time to time. He thanked his staff for their work and support, stating they were the best in the State. Sheriff Turner made the prediction that Dudley Greene will make the best Sheriff that this County has ever seen.

Commissioner Lavender asked what Sheriff Turner thought could be done to make the job better for our citizens. Sheriff Turner said the pay for law enforcement employees is lower than surrounding counties and that they should be paid equally as much which would help the morale of the department. He recommended a pay scale comparable with other counties.

Vice-Chairman Walker noted Sheriff Turner's example to others, saying he appreciated both him and his family.

Commissioner McPeters expressed his appreciation for an "A" number one department and what Sheriff Turner has done for McDowell County.

Chairman Webb read the following Resolution, the official copy of which will be executed and framed for presentation to Sheriff Turner at a later date:

**Resolution of Appreciation
Recognizing SHERIFF JACKIE TURNER for His Many Years of Service
to the Citizens of McDowell County**

WHEREAS, Sheriff Jackie Turner has served the citizens of McDowell County in law enforcement for thirty years; and

WHEREAS, Sheriff Turner served as the McDowell County Sheriff for over fourteen years; and

WHEREAS, Sheriff Turner focused substantial attention and resources to the drug enforcement problem in McDowell County arresting hundreds of drug dealers and making many areas of the County safer; and

WHEREAS, Sheriff Turner took strong action against the video gambling industry and did oppose the spread of video gambling in McDowell County; and

WHEREAS, Sheriff Turner saved local tax payers millions of dollars by efficiently using asset forfeiture revenue and jail profits to maintain his agency; and

WHEREAS, Sheriff Turner represented the law enforcement community and the citizens of McDowell County with the greatest integrity and professionalism.

NOW, THEREFORE, BE IT RESOLVED by the McDowell County of Commissioners that:

The Board extends its strongest appreciation and best wishes to Sheriff Jackie Turner and his wife Pat and family for his years of service to the profession of law enforcement in McDowell County and extends their best wishes to him in his retirement from public service.

ADOPTED this the 12th day of May 2008.

ATTEST:

Andrew K. Webb, Chairman

Carrie Padgett, Clerk to the Board

Chairman Webb stated that Sheriff Turner did not make a lot of requests but when he did show up, the Board knew there was a need and he did not recall that they ever denied a request from him. He stated they had taken his comments seriously and that there had been discussion of the staff and they would be reviewing this further.

Chairman Webb stated that Sheriff Turner had requested his sidearm and badge upon his retirement, effective April 30, 2008.

Upon motion by Commissioner McPeters and a second by Commissioner Lavender, the Board voted unanimously to grant the Sheriff's request for his sidearm and badge.

Commissioner Lavender then made a motion to approve the *Resolution of Appreciation Recognizing SHERIFF JACKIE TURNER for His Many Years of Service to the Citizens of McDowell County* as presented. Commissioner McPeters seconded the motion and the vote was unanimous.

Chairman Webb then called forward Dudley Greene of the McDowell County Sheriff's Department, welcoming him to the meeting. The Chairman explained that through a very meticulous process in accordance with North Carolina General Statutes, the McDowell County Republican Party Executive Committee had met in called meeting and taken action "for the expressed purpose of selecting a nominee for Sheriff". As stated in a letter received from Chairman Vance Caudle, the Committee chose Mr. Dudley Greene as their recommendation to be the new Sheriff for McDowell County.

The County Manager advised that with the recommendation having been received from the Executive Committee of the Republican Party, the Board would act on that recommendation.

Commissioner Lavender made a motion to accept and approve wholeheartedly the recommendation from the Republican Party to accept Mr. Dudley Greene as the new Sheriff of McDowell County. Commissioner Walker seconded the motion and the vote was unanimous by those present.

Mr. Greene stated he was deeply honored by the confidence of the Executive Committee and the appointment by the Board of Commissioners, by Sheriff Turner's endorsement, and all the support by members of the Department and the public as well. He said since coming to work in McDowell County in 1994, he had been very impressed with all branches of law enforcement in their ability to reach common ground and work together for the good of the County. He stated it was his desire to work with the Board of Commissioners, other elected officials, the Court System, and other law enforcement and emergency service agencies to provide the best possible law enforcement service. He said although he would continually look for ways to do the job better, Sheriff Turner's open, honest and fair philosophy would remain his as well. Mr. Greene said he hoped the Board of Commissioners and administration, other departments and agencies as well as

the public would contact him any time he could be of service to them, and he would ask for their thoughts and prayers.

Chairman Webb advised he had received the honor of swearing in Mr. Greene as the new Sheriff along with his deputies, and he would ask to be excused for this purpose and would ask that Vice-Chairman Walker continue on with other business of the Board's meeting.

PUBLIC HEARING/LOCAL INDUSTRY EXPANSION

At 5:45 p.m. as duly advertised, Vice-Chairman Walker declared the Board in public hearing for the purpose of receiving public comment concerning economic development incentives offered by McDowell County for economic development activities as authorized by Section 158-7.1 of the North Carolina General Statutes.

The County Manager explained he had been communicating with a local company known as Mike's Cabinet Shop that employs three people. He is looking at an expansion that would enable him to hire 13 to 15 individuals and will build a 10,000 sq. foot building expandable to 20,000 sq. feet. The County has submitted a One NC Grant application in the amount of \$30,000 and is proposing to match that amount over three years. Mr. Abernathy noted his wages are very high, he is building a showroom, and sales will go up. He is investing \$650,000 in the project.

Vice-Chairman Walker asked if any one present wished to make comment. No one responded.

Commissioner Lavender made a motion to go out of public hearing. Commissioner McPeters seconded the motion and the vote was unanimous by those present.

Commissioner Lavender then made a motion to approve the requested One NC match in the amount of \$30,000. Commissioner McPeters seconded the motion and the vote was unanimous.

FLOOD MAP UPDATE

The County Manager advised he and staff had met last week with State FEMA representatives, along with representatives of the City of Marion and the Town of Old Fort, on the adoption process for the flood maps. He stated that essentially, the Board would have to adopt the flood maps and a new ordinance, and that staff was in the process of running a parallel of differences between the existing ordinance and the new one to be adopted. He said they have until October to do this, but staff's opinion is that it should happen in July or August since a public hearing is necessary, with a half-page advertisement. He stated the City of Marion and Town of Old Fort would probably be sharing the cost with the County. Mr. Abernathy noted there would be an update next month and that the Planning Board is reviewing the process as well.

BOARD APPOINTMENTS

Vice-Chairman Walker noted there were two seats open on the Planning Board and there were four applicants, two of which would be for reappointment (Dennis Whitson and Arvin Hicks). Other applicants were Marc Cook and Frank G. Kissell, Jr.

Also, Vice-Chairman Walker noted a first reading on appointments to the Library Board and referenced information received from the Clerk that there had been no interest shown for an ETJ representative for Montreat's Planning and Zoning Commission and Board of Adjustment. The Clerk had received an email from the Clerk at Montreat stating they planned to appoint someone if no one could be appointed by the County by the end of April.

The Board, with three members present, proceeded to vote by written ballot and results of the vote were:

Unanimous vote for Dennis J. Whitson

Two votes (Commissioners Walker and McPeters) for Arvin Hicks, Jr.

One vote (Commissioner Lavender) for Marc Cook

Therefore, Dennis J. Whitson and Arvin Hicks, Jr. were reappointed to the Planning Board.

LONG TOWN FIRE DISTRICT

In an overview of this item, the County Manager stated that last year the Board had approved fire service from the Longtown Fire Department located in Burke County for four lots located on Lake James that are difficult to serve from McDowell County. There had been another request to include additional lots under the same set of circumstances. A letter had been received from the Longtown Fire Department and one from the Nebo Fire Department that concurred with the request. The Board of Commissioners was being asked to take action to authorize the fire service request, with the additional area to be included in the budget ordinance, with funds going to the Longtown Fire Department.

A motion was made by Commissioner Lavender to authorize action to permit Longtown Fire Department service area, transferring funds as appropriated. Commissioner McPeters seconded the motion and the vote was unanimous by those present.

TAX RELEASES AND REFUNDS

The usual listing of tax releases and refunds were presented for the Board's approval. In summary, they were:

| | |
|---------------------------------------|-------------------------------|
| Releases/Under \$100.00 | Released amount of \$1,588.31 |
| Releases/Over \$100.00 | Released amount of \$4,202.51 |
| Release Refunds | Refunded amount of \$1,707.36 |
| Motor Vehicle Releases/Over \$100.00 | Released amount of \$105.05 |
| Motor Vehicle Releases/Under \$100.00 | Released amount of \$665.30 |

Upon motion by Commissioner McPeters and a second by Commissioner Lavender, the tax releases and refunds were unanimously approved as presented.

FOOTHILLS MERGER RESOLUTION

Vice-Chairman Walker thanked Commissioner Lavender for his service on the Foothills Mental Health Board, and asked if he had any comments concerning the merging issue.

Commissioner Lavender stated this will be a good merger, that Smoky Mountain Center is very proactive and that they have a good relationship with State officials, about which he gave an example. He said he was proud that they were opening up a pilot program which will allow us to transport clients more quickly, etc., noting this will provide a reduction in waiting time.

Vice-Chairman Walker presented the following resolution for the Board's adoption:

SMC/Foothills Merger Resolution

Whereas, The Foothills LME consisting of Alexander, Caldwell and McDowell Counties has determined to identify a merger partner to carry out its LME functions and to meet the requirements of GS 122C-141; and

Whereas, GS 122C-141 defines that the catchment area of an LME must be 6 counties, or have a population of 200,000 and Foothills LME does not meet these defined standards; and

Whereas, Foothills LME has explored options to meet this mandate that will be in the best interest of the residents of Alexander, Caldwell and McDowell Counties; and

Whereas, The Foothills and Smoky Mountain Center Administration’s have demonstrated a history of partnership and collaborative planning in meeting the intent of GC 122C-141, in the provision of LME management functions; and

Whereas, The Foothills and Smoky Mountain Center Board of Directors and Administration find it mutually beneficial to be a part of a 15 county catchment area inclusive of Alleghany, Alexander, Ashe, Avery, Caldwell, Cherokee, Clay, Graham, Haywood, Jackson, Macon, McDowell, Swain, Watauga, and Wilkes Counties to carry out all LME functions outlined in GS 122C-141; and

Whereas, the Division of MH/DD/SAS and the Department of Health and Human Services find a 15 county catchment area inclusive of the Smoky Mountain Center and Foothills a desirable and cost-effective reconfiguration to carry out LME functions;

Be it Hereby Resolved, The Foothills Board of Directors agrees to merge with Smoky Mountain Center, forming an organization that will serve and provide all LME functions in Alleghany, Alexander, Ashe, Avery, Caldwell, Cherokee, Clay, Graham, Haywood, Jackson, Macon, McDowell, Swain, Watauga, and Wilkes Counties effective July 1st, 2008.

THIS IS TO CERTIFY that the foregoing is a true and correct copy of resolutions duly adopted by the McDowell County Board of Commissioners on the 12th day of May, 2008.

Andrew K. Webb, Chairman
 McDowell County Board of Commissioners

Date

ATTESTED BY:

Carrie J. Padgett, Clerk to the Board
 McDowell County Board of Commissioners

Date

Commissioner Lavender made a motion to send a letter of intent along with the adopted resolution to complete the merger. Commissioner McPeters seconded the motion and the vote was unanimous.

UPCOMING EVENTS

In addition to the events listed in the Clerk’s email to the Commissioners, the County Manager advised the Annual Fire Commission Meeting was scheduled for 6:00

p.m. on Wednesday, May 21, 2008, probably at Countryside Bar-B-Que, but he would have to confirm the location later.

In discussion, Commissioner McPeters stated he would be on vacation that week and Commission Walker stated he would have to leave the meeting early if held that evening. Mr. Abernathy agreed to see about getting the meeting changed to another date.

Also, Mr. Abernathy noted the McDowell Manufacturers' Leadership Development Program luncheon would be held on Friday, May 23, 2008, 11:30 a.m. at the Hook and Anchor Restaurant. (Note – This luncheon was later changed to Wednesday, May 28th, at the same location and time.)

CITIZEN COMMENT

Vice-Chairman Walker stated it had been the Board's policy to move the citizen comment period forward when all other business of the Board is completed prior to the scheduled time for this item. With citizen comment scheduled for 6:15 p.m. and all other business already handled, and with no one signed up to speak, he advised there would be no citizen comment this evening.

ADJOURNMENT

With no further business to transact at this time, upon motion by Commissioner Lavender and a second by Commissioner McPeters, the meeting was adjourned to the Conference Room on Second Floor for dinner and a presentation by the Cooperative Extension staff.

ANDREW K. WEBB, CHAIRMAN

CARRIE PADGETT
CLERK TO THE BOARD