

**STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
BOARD OF COMMISSIONERS  
REGULAR SESSION – NOVEMBER 8, 2010**

**ASSEMBLY**

The McDowell County Board of Commissioners met in regular session at 5:00 p.m. on Monday, November 8, 2010, in the Commissioners' Board Room, the usual place of meeting.

**MEMBERS PRESENT**

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

**OTHERS PRESENT**

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

**CALL TO ORDER**

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

**APPROVAL OF MINUTES**

Minutes of the August 2, 2010 regular session were presented for approval.

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

**APPROVAL OF AGENDA**

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

**BUDGET UPDATE AND AMENDMENTS**

Chairman Walker recognized the County Manager and Finance Officer for this report. First, the Finance Officer presented the following budget amendments for the Board's approval:

- GF 6 – This amendment accounts for various grants that have been received and also amends the Rescue Squad billing that we handle. The Rescue Squad amendment comes out of the EMS revenue line item which is why the line item is shown.
- GF 7 This amendment increases the Library equipment and supplies by using grant funds carried forward from the previous fiscal year. The 6800 line item is the reserve fund for the Automated Update reserved for the Register of Deeds (by statute). This will be used for a printer and scanning of documents. The Building Improvements line item is funds rolled over from last year for the Library and State Street building.
- GF 8 This amendment applies to DSS and rolls funds forward, receives additional federal revenue and budgets the raise approved in July by the Board.
- GF 9 This amendment appropriates funds from the tax collection revenue line item to the expense line item for forced collections. This is the cost of the foreclosures.
- TP1 This amendments allocates the \$10,000 for the trail participation that was previously approved.
- CDBG53-1 This amendment adds a small amount of funding received in order to close out the Little Mountain CDBG Rehabilitation Project.

Commissioner Webb made a motion, seconded by Commissioner McPeters, to approve the budget amendments as presented. The motion carried by a unanimous vote.

Mr. Abernathy provided an update on revenues, noting that staff had combined some of the revenues and some of them lag for several months so one needs to view this portion of the budget with caution. Sales tax for July had finally been received and this was good news. The EMS expenditures were briefly discussed.

Mr. Abernathy then gave a general summary of fund balance showing a total Fund Balance as of June 30, 2010 of \$11,467,877, an increase of \$536,989 from the previous fiscal year. Fund Balance available for appropriation was \$8,451,381 (25%), up \$1,174,507 from 19.67%.

Chairman Walker asked that Mr. Abernathy convey to the County staff that the Board appreciates their hard work and efforts in controlling costs. Mr. Abernathy pointed out that 13 positions were eliminated.

### **COOPERATIVE EXTENSION POSITION MATTER**

County Extension Director Molly Sandfoss came before the Board to request the Board's assistance in filling the position in Cooperative Extension Service left vacant since June of 2009. In order to fill that position, she advised the State wanted the County to increase the percentage of the salary that the County pays. Currently, the County's portion is 38.5% and they would like to increase it to at least 45%. McDowell ranks high in this ranking for this position.

Discussion followed on the salary, education and/or experience for the person hired. Commissioner Webb noted the length of time the position has been vacant.

Commissioner Lavender made a motion, seconded by Commissioner McPeters, to accept the change in position funding to 45% as requested, and to thank the former Director who is now Regional Director for making this available. The motion carried by a unanimous vote.

### **EMS AMBULANCE REQUEST/UPDATE ON NEBO BASE STATION**

EMS Director William Kehler came before the Board to request authorization to purchase a second unit using the "piggyback" method according to G.S. 143-129(g) which allows the granting of another award to Taylor Made Ambulance. This unit would replace the one lost when the ambulance was involved in a collision. Mr. Kehler noted the competitive bid was awarded at the August meeting and the vendor had agreed to honor the specifications, pricing, etc. and also had provided a lease ambulance at no cost to the County during the period it takes to manufacture the ambulance, thus extending that bid price for a second unit.

The County Manager commented briefly concerning the wreck and the County's practice of buying a new ambulance each year. He and the Finance Officer addressed the debt or loan payment for this fiscal year.

In further discussion, Mr. Kehler explained the reason behind the total wrecking of the unit. A resolution authorizing the "piggyback" arrangement was introduced along with RFP's regarding financing. RBC Centura responded with the lowest rate of 2.07% for a period of four (4) years-annual payments in arrears beginning May, 2011. Other responses on financing were:

Sun Trust 2.065% (\$500 closing fee)

BB&T 2.21%

Carolina First 5%

A motion was made by Commissioner Lavender to approve the *Resolution Approving Financing Terms* and to authorize the low bid with RBC Centura of 2.07% on

financing. Commissioner Buff seconded the motion and by a unanimous vote, the motion carried.

The EMS Director advised the new Nebo Base facility became operational on October 29<sup>th</sup> although final touches are yet to be done. A ribbon cutting and dedication are planned in the near future. Since the opening of that station, the unit assigned to that facility had responded to 37 calls for service and 19 staging calls. The response time to the Nebo Community on average has decreased five to eight minutes since the opening of the new facility. Mr. Kehler addressed the new procedure for heart patients, noting that paramedics can now do an EKG on patients in the field and they go directly to the hospital for a cauterization which is vital for the person that is ill. The hypothermia program continues to be a success as well.

A general discussion followed.

### **EMERGENCY MANAGEMENT GRANTS**

Emergency Management Director Terry Young came before the Board concerning two grants being considered. The first one is the Domestic Preparedness Region 8 "Dipper" grant which includes twelve counties. In 2010 for the Dipper grant, McDowell County sponsored a generator grant. He had been asked again by the Dipper Region if McDowell County would be willing to do that again in 2011. If approved, it would again be for generators and the amount is \$200,000. This grant would be submitted on behalf of the region and would not involve county funds.

A general discussion followed.

The second grant would involve partnering with The McDowell Hospital and come about after the snow storm and a residential emergency was declared. The federal share for this grant is \$220,000 and the non-federal share is \$73,333. McDowell Hospital has agreed to pay the non-federal share.

A brief discussion followed.

A motion was made by Commissioner Lavender to sponsor the 2011 Domestic Preparedness Region 8 generator project and to approve receipt of the grant from FEMA and North Carolina Emergency Management for McDowell Hospital in the amount of \$220,000. Commissioner McPeters seconded the motion and it passed by a unanimous vote.

### **REQUEST FROM McDOWELL MISSION**

The Rev. Bill Warren, Executive Director, and several members of the McDowell Mission Ministries Board were present to request the County's help with the cost for a roof replacement at the Friendship House for Women and Children on Fleming Avenue. A similar request had been made with the City of Marion.

Linda Cloherty, Chairperson for McDowell Mission Ministries, Kathy Evans, Vice Chairperson, Pam Murray and Ed Krause each addressed the Board giving statistics of the number of women and children currently being housed at Friendship House, success stories of some of the Mission's clients, their efforts to operate by working with United Way, doing fundraisers, seeking help from community churches, etc. They explained they had never before come to the Board of Commissioners seeking help but, since they are in such dire need for help with the roof, they were requesting an immediate allocation and also would ask that they become a line item in the County's budget.

Mr. Warren explained they had taken donations, had cut two employees and had done some other things to save expenditures. He stated they would have to borrow money to do this project unless other funding was made available. He gave statistics on the people they help, noting that a lot of this depends on the economy.

The Board inquired as to what the City's response had been to their request. Mr. Warren indicated that he was not very optimistic about this. He noted the help they had received from churches but was quick to point out they and DSS are seeing more people now than ever before.

The County Manager pointed out he had only found one grant and it is not awarded until July, but the need will not wait that long. His thought was that if the Board agreed to fund half the roof, maybe there is about \$10-11,000 for which application could be made.

Commissioner Webb noted Mr. Abernathy's plan of adjourning until Monday and asked if they could wait for seven days. Mr. Warren's response was that they could still do the work through the month of November. Mr. Webb indicated that he wanted to talk with some board members and give some consideration to the request, noting item #12 for demolition and the possibility that the City could eliminate permit fees.

Commissioner Webb then made a motion, seconded by Commissioner McPeters to offer a \$10,000 donation and challenge the community that hopefully will inspire others to make donations as well, again noting item #12. The motion carried by a vote of 4-1 with Commissioner Lavender casting the opposing vote because he wanted a higher amount.

### **CONTRACT FOR PILOT PLANT**

The County Manager gave an overview of the project, noting the standard right of way agreement with Duke Energy to bring three phase power to the site, a contract with Douglas Smith of NC State University who will write a USDA-mandated hazard analysis and critical control points (HACCP) plan, and an agreement with McGill Associates that

covers a necessary change in the sewer line design. The last two contracts are being paid with grant funds.

Smithson Mills addressed the Board at this time, explaining what people see a plant like this being, such as a Tyson or Perdue with tractor trailers coming and going. He said the type needed is a USDA facility that is clean and safe, and that is what everyone involved with this project is trying to have.

Extension Director Molly Sandfoss said there will still be a fee, there will be farmers who will still want to do production on their farms, and some will want to do business at the plant. Mr. Mills explained the process for farmers of delivery and pickup of their products within a given timeframe, without the delivery of products through use of tractor trailers.

A general discussion followed.

A motion was made by Commissioner Webb, seconded by Commissioner Lavender, to suspend the rules to allow the "Citizen Comment" period for Mr. Keys to speak.

Mr. Keys stated he is a retired environmentalist and had some concerns about this project, with possible future expansions, etc. Mr. Mills again addressed the operation saying there is no room for expansion and that he can foresee the farmers wanting to have another location soon. He said the lines are not sufficient for expansion.

Fred Alexander, a resident of the Rocky Pass Community, pointed out they have two prisons, the Animal Shelter, the County Garage, etc. in their community and do not need anything else.

Mr. Mills addressed the offer made by the State Department of Corrections to tie the sewer line in with their system. He stated since their line has terra cotta pipe and is somewhat dated, his desire would not to accept the donation.

Commissioner Lavender made a motion, seconded by Commissioner Buff, to approve the standard right of way agreement for with Duke Energy, the contract with Douglas Smith, and the agreement with McGill Associates to cover the necessary change in the sewer line design. The motion carried by a unanimous vote.

### **WATER LINE UPDATES**

In a brief update concerning the bids, the County Manager said his hopes are that there will be more funds than projects.

### **AGREEMENT WITH CITY OF MARION REGARDING \$5.00 FEE**

The County Manager presented a draft copy of the Agreement between McDowell County and the City of Marion regarding collection of the \$5.00 fee on motor vehicles on bills that the County sends out to the taxpayers. The Board had said it wanted to see a formal agreement. He advised he had questions about Section 6 which is a holdover from another agreement and the fact that this has nothing to do with real property. Also, he pointed out that initially there was no way of knowing exactly what this process would involve; however, he felt now that the impact is not as great as it was originally thought.

A brief discussion followed.

Commissioner Buff made a motion, seconded by Commissioner Webb, to reduce the fee for collection of the \$5.00 fee from \$2,500 to \$2,000. In further discussion, Commissioner McPeters noted the idea that the City is charging the fee and not the County. The motion carried by a vote of 4-1 with Commissioner Lavender opposing.

### **ETHICS RESOLUTION**

The County Manager presented the document entitled *CODE OF ETHICS FOR THE BOARD OF COMMISSIONERS OF McDOWELL COUNTY, NORTH CAROLINA*, and explained what had transpired previously concerning the document. He pointed out it was not necessary to approve the document now but he did not recommend changing anything now.

A general discussion followed, during which Mr. Abernathy said he had no problem with the document. Commissioner Lavender noted the item of sharing ideas and talking with the public, disclosing contacts, etc. Mr. Abernathy pointed out he thought it would involve zoning, the Board of E&R, and other quasi judicial matters, noting the Board could delete a latter portion of item seven, changing it to say "*and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings*".

Commissioner Lavender made a motion to approve the *CODE OF ETHICS* with the exception of taking the County Manager's suggestion of striking "*themselves*" at the end of item seven in Section 2. Commissioner McPeters seconded the motion and it passed unanimously.

### **OVER MOUNTAIN VICTORY TRAIL UPDATE**

The County Manager advised the date for the public meeting with the National Park Service regarding the Over Mountain Victory Trail issue is scheduled for December 7<sup>th</sup> from 5-8:00 p.m. in the Courthouse, at which time comments will be received from the public on locating the headquarters here. He pointed out there should be at least some emails from the Board of Commissioners, the City of Marion, the Chamber of Commerce

and the Trails Association, and from the Historic Carson House and McDowell House Boards to show their interest in this happening. Also, he said every effort should be made to ensure having good attendance at the meeting, and that the County needs to impress on the Federal Government that we are serious about this matter and we need to have the support there to prove this.

### **TAX AND WATER REFUND AND RELEASES**

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

Releases Under \$100.00	Released amount of \$109.36
Releases Over \$100.00	Released amount of \$3,424.81
Motor Vehicle Releases Under \$100.00	Released amount of \$997.45
Motor Vehicle Releases Over \$100.00	Released amount of \$1,399.07
Release Refunds	Refunded amount of \$2,571.80

The County Manager advised the tax releases and refunds were standard, but the water item needed to be discussed.

Commissioner Buff stated he did not want to vote on the water item.

Commissioner Webb made a motion to excuse Commissioner Buff from voting on this item. Commissioner McPeters seconded the motion and the vote was unanimous.

Commissioner Buff then explained that a Finance Department employee had called to say he had a leak in one of his rental properties. When he checked, it was not at that location but at another one. He explained that generally when a leak occurs, water will be on the ground. When the problem was found in this particular case, it was under a parking lot and it had run up a massive bill. He paid half of the bill immediately and on time and got the problem corrected.

Commissioner Webb made a motion to honor the adjustment as presented. Commissioner McPeters seconded the motion and the vote was unanimous with a total of four voting.

Commissioner Lavender then made a motion, seconded by Commissioner McPeters, to approve the tax releases and refunds as presented. The motion carried by a unanimous vote.

Concerning the EMS write-offs, by consensus the Board agreed to postpone those items until December.

## **BOARD APPOINTMENTS**

Chairman Walker reviewed board vacancies as presented by the Clerk. They included one for the Transportation Planning Board and one for the Adult Care Committee. There was one applicant for the Nursing Home Committee (Pat Burnette) but none for Adult Care. The Regional Ombudsman was requesting that Lisa Hanlon, who was appointed to the Adult Care Committee, be permitted to serve on the Nursing Home Committee as well.

A motion was made by Commissioner Webb, seconded by Commissioner McPeters, to consider the Transportation Planning Board vacancy as a second reading. The vote was unanimous.

A motion was made by Commissioner Lavender, seconded by Commissioner Webb, to suspend the rules and consider Pat Burnette for the Nursing Home Committee. The vote was unanimous.

Commissioner Lavender made a motion, seconded by Commissioner McPeters, to allow Lisa Hanlon to serve on both Nursing and Adult Care. The motion carried unanimously.

The Board then voted by written ballot on the three applicants under consideration. By a unanimous vote of the Board, the following people were appointed:

Tim Blenco to the Transportation Planning Board

Pat Burnette to the Nursing Home Committee

Lisa Hanlon to the Nursing Home Committee

## **BARNES ROAD PROPERTY MATTER**

From a map, the County Manager identified the 25 (+/-) acres of property on Barnes Road which the County owns, noting that it adjoins a 38 acre tract owned by the heirs of Doc Poteat. Mr. Poteat is now deceased and his son is an heir. He advised staff had viewed this property as being a nice commercial site and probably ought to be bundled. He said the property is not receiving commercial activities and those showing commercial interest are looking elsewhere. Mr. Abernathy said he had spoken with Mr. Poteat about this and the MEDA Board has talked about the situation in two meetings. He noted one small McDowell County business that may have some interest in locating there. With that in mind, Mr. Abernathy said he wanted to do is carve out six or seven acres in a particular area that would not damage the property in a way that would make it less useful. Therefore, the MEDA Board is recommending that the property contiguous with Barnes Road be marketed for small, metal-building type business.

A general discussion followed.

Commissioner Webb made a motion, seconded by Commissioner McPeters, to allow staff to investigate the feasibility of this property being designated for small business. The motion carried by a unanimous vote.

### **FIBER RIGHT OF WAY/POINT LOOKOUT**

The County Manager advised he had received the map of the survey of a trail going from Ridgecrest's Parking Lot to the trail at the top of Point Lookout. The County Attorney had not yet recorded the map but it will be recorded. Agreements with property owners will be transacted because fiber is being laid down Point Lookout Trail by MCNC. Mr. Abernathy pointed out that an agreement with Mr. Franklin has not been signed and he is free to do what he wants to do. There is a signed right of way across his property but no agreement yet and one is needed. Therefore, an agreement has been drafted for execution with Mr. Franklin for our protection. In relationship to Ridgecrest's Parking Lot, that agreement has been signed.

Mr. Abernathy then made reference to a letter he had sent to Mr. Randy Bagamary of LifeWay Ridgecrest Conference Center simply stating "your organization has previous agreed to grant an easement to McDowell County on this same property for the construction of an extension of fiber to Point Lookout Trail"----"After consulting with Bill Hendley of the McDowell Trails Association and representatives of MCNC, all parties agree that the installation of this fiber network is extremely important. Furthermore, it is clear that both projects can happen without hindering the other. Therefore, McDowell County consents to the installation of this fiber network with the request that any agreement signed between LifeWay and MCNC include a repair clause so that any disturbance to the trail in the future will be repaired in an appropriate manner".

Continuing, Mr. Abernathy explained that since the map was not recorded, there was no way for the construction workers to know that the County had an agreement. Therefore, Ridgecrest had agreed to sign the document with a place in for repair provisions so that anything constructed would be repaired. Therefore, the letter previously referenced was sent noting the County's agreement.

Commissioner Lavender made a motion, seconded by Commissioner McPeters, to authorize this agreement, and that we validate the letter and seal that path since this is approving the construction of fiber for the County and we do not want to slow this down. Commissioner McPeters seconded the motion.

In further discussion, Mr. Abernathy noted that he understood fiber does connect all the schools in Western North Carolina.

When put to a vote, the motion carried unanimously.

### **LEASE RENEWAL ON HIGHWAY 221 NORTH PARK**

The County Manager explained that years ago the Forest Service was planning to close the Woodlawn Park (Highway 221 North) and a petition was presented to the County with about 2,000 names on it. The County was then asked to operate the new park, resume responsibility for it, and the Commissioners said this was something they wanted to do. He said he had no petition but would suspect that the Park is very much used and is a nice asset. Therefore, he would recommend renewal of the Lease.

A brief discussion followed.

Commissioner Webb made a motion, seconded by Commissioner Buff, to extend the Lease with the State as presented. The motion carried by a unanimous vote.

### **CITIZEN COMMENT**

Chairman Walker checked the register sheet but no one had signed up to speak.

### **CLOSED SESSION INDUSTRIAL MATTER AND PROPERTY MATTER**

Chairman Walker stated the County Manager had requested a closed session for discussion of an industrial recruitment and a property matter. He recognized the County Manager for further information. Mr. Abernathy stated this item was in reference to the Lake James Water Filtration Plant, with other updates. Chairman Walker advised the closed session was in accordance with G.S. 148-7 and declared the Board in closed session for an industrial matter and a property matter, with disclosure as stated by the County Manager.

At the end of the closed session, Commissioner McPeters made a motion to go out of closed session. Commissioner Buff seconded the motion and the vote was unanimous.

### **REGULAR SESSION RESUMED**

Chairman Walker explained the Board had been in closed session regarding an industrial recruitment matter and also a property matter.

Commissioner Buff made a motion to proceed with the Lake James Water Filtration Plant since some legal issues had been worked out. Commissioner Lavender seconded the motion.

In discussion, Mr. Abernathy noted the Board had voted do this six or seven months ago and the property is under option for \$40,000. He recommended that the option be executed under the terms to which the Board had already agreed.

When put to a vote, the motion carried unanimously.

### **REPORTS AND COMMUNICATIONS**

The County Manager advised he wanted the Board to meet the next Monday (November 15<sup>th</sup>) for a presentation of the Schedule of Values for the upcoming Revaluation and that the Finance Officer wanted to present an item regarding computers. He said the main focus for this meeting would be the Tax item. The Board concurred with Mr. Abernathy's request.

With this being Commissioner Buff's last meeting with the Board, Chairman Walker spoke briefly of Commissioner Buff's wisdom and his invaluable leadership, noting that he would be greatly missed. He stated the Board would be asking Commissioner Buff to come back for a future meeting, saying they want to do honor to an honorable man.

### **ADJOURNMENT**

There being no further business to transact at this time, upon motion by Commissioner Lavender and a second by Commissioner Webb, the meeting was adjourned until Monday, November 15, 2010, at 11:00 p.m. for a discussion of the Schedule of Values for the upcoming revaluation.

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DAVID N. WALKER, CHAIRMAN

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CARRIE PADGETT  
CLERK TO THE BOARD