

**STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
BOARD OF COMMISSIONERS  
REGULAR SESSION – NOVEMBER 10, 2008**

**ASSEMBLY**

The McDowell County Board of Commissioners met in regular session at 5:00 P.M. on Monday, November 10, 2008, in the Commissioners' Board Room, the usual place of meeting.

**MEMBERS PRESENT**

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

**OTHERS PRESENT**

Charles R. Abernathy, County Manager; Carrie Padgett, Clerk to the Board; Ashley Wooten, Assistant to the County Manager (Video); 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 Walker.

**APPROVAL OF MINUTES**

Minutes of the September 8, 2008 regular session were presented for approval.

A motion was made by Commissioner McPeters to approve the minutes as recorded. Commissioner Walker seconded the motion and the vote was unanimous.

**APPROVAL OF AGENDA**

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

**COMMUNICATIONS STUDY REPORT**

The County Manager stated the Communications Study Report was very much a draft, being presented as an update and not a finished document. He advised the finished set of recommendations would be presented probably in January, noting that some

improvements had already been made and that staff was clear on the direction that needed to be taken, which was mainly good news.

Terry Young, Emergency Management Director, advised the study was done in the Ashford/North Cove area, Woodlawn area at Coxes Creek Free Will Baptist Church 226 North, Snow Hill Cemetery off 226 A, and in Old Fort with the addition of the EMS frequency.

Eddie Epley, 911 Coordinator, addressed the transmission used, noting the areas checked and how the transmitting was at those areas.

A general discussion followed. Mr. Epley advised the problems addressed with Whitley were included in the report. Mr. Young said he would estimate the cost of getting the system back up to normal could be up to \$10,000. The question was asked whether they could tag into the viper system used by the highway patrol. Mr. Young responded, saying this would be expensive.

Chairman Webb thanked Mr. Young and Mr. Epley for their work in doing the study, and Mr. Larry Withrow for his talent in finding the problem areas and having creative ways for improvement.

### **REQUEST APPROVAL FOR TAX EXEMPT LOAN AND PG FIRE HYDRANTS**

Brad Ledbetter, Chief of the Pleasant Gardens Fire Department, came before the Board with two requests: 1) Approval by the Board of Commissioners for a tax-exempt loan (\$230,000) for the fire department, and 2) That the County pay for two hydrants and the related equipment that will be installed on Circle Drive in Pleasant Gardens, the cost for which would be \$4,500. He advised they had a public hearing in October and needed the Board's approval for the loan.

In a brief discussion, Mr. Ledbetter advised the interest rate would be about 4%.

Commissioner Lavender made a motion to approve the Fire Department's request concerning the loan. Commissioner Walker seconded the motion.

In further discussion, the Chairman pointed out the hydrants would be considered as a separate request.

When put to a vote, the motion carried unanimously.

Addressing the installation of fire hydrants on Circle Street, Mr. Ledbetter advised the City was agreeing to install the hydrants, both of which would be purchased at a cost of approximately \$4,500.

There was discussion on whether the project would be in jeopardy if it were withheld until the Utility Committee meets to discuss water/sewer, and other issues, exactly what the cost would involve (whether more than just the unit itself), etc..

Chairman Webb respectfully asked that the Board be permitted to wait for further discussion about this request. He congratulated Mr. Ledbetter for the work the Fire Department was doing and their coordination with the City on this project.

In conclusion, the upcoming meeting with the City of Marion was noted.

### **SENIOR CENTER TRAIL MASTER PLAN AMENDMENT**

Concerning the Trail Master Plan approved by the Board last year and its direction for exploring a PARTF grant for the YMCA trail, the County Manager advised he had met with the person writing the grant at which time they had discussed things that could be done to maximize the point allocation for the project. He pointed out that since there are two trails, he was requesting an amendment to the Trail Master Plan to include the McDowell County Greenway Extension in order to generate more points in the grant allocation.

A motion was made by Commissioner Lavender to approve the Trail Master Plan to include the McDowell County Greenway Extension. Commissioner McPeters seconded the motion and the vote was unanimous.

### **TRANSFER OF EMERGENCY BAR LIGHTS**

The County Manager introduced a resolution entitled *COUNTY OF McDOWELL RESOLUTION FOR THE PURPOSE OF TRANSFERRING TWO EMERGENCY BAR LIGHTS TO THE McDOWELL COUNTY RESCUE SQUAD*. Mr. Abernathy pointed out the Sheriff had stated that he has no need for the lights and that State law allows the Board to authorize doing this to another non-profit public purpose agency.

Commissioner Lavender made a motion to approve the *RESOLUTION FOR THE PURPOSE OF TRANSFERRING TWO EMERGENCY BAR LIGHTS TO THE McDOWELL COUNTY RESCUE SQUAD*, thereby authorizing the transfer. Commissioner McPeters seconded the motion and the vote was unanimous.

### **WATERLINE UPDATES**

The County Manager and his Assistant provided a brief update on both the Watson Road and Sherwood Forest water line projects, noting that the project on Watson Road had started this date.

Addressing the \$300.00 connection fee, per the County Agreement with the City of Marion, Mr. Abernathy advised staff would be communicating by letter with each

property owner regarding the fee and the fact that connections need to occur during construction in order to avoid a higher fee.

Mr. Abernathy noted the importance of the Harmony Grove Road Project, advising that he would like to amend one of the two contracts and keep working to eventually run the water line up to the Fire Department. Other positive aspects of this project were also noted.

### **NCACC VOTING DELEGATE**

With the upcoming Legislative Goals Conference in January, the Board considered who would serve as the voting delegate for the conference. Commissioner Lavender said he was willing to share this responsibility if someone else wanted to serve.

Commissioner Buff made a motion to name Commissioner Lavender as the County's Voting Delegate for the Legislative Goals Conference. Commissioner Walker seconded the motion and the vote was unanimous.

### **REGISTERED SEX OFFENDER ON RECREATION PROPERTY ORDINANCE**

The County Manager advised this item had been brought to his attention and was a very sensitive matter, with a sex offender on County property. Mr. Abernathy addressed the legalities of such matters, noting that it had been challenged in court in Buncombe County and was determined to be legal. With reference to information he had copied from Jackson County for the Board's review, he pointed out he would like to expand the ordinance further to include not just property but activities, such as 4-H, as well. He advised he would like to explore the ordinance further and place it on the December agenda for a second reading.

By consensus, the Board agreed to place the Sex Offender Ordinance on the December agenda for a second reading. Commissioner Lavender suggested adding the State Street Day Care as one of the properties to be included with the Ordinance as well. There were no objections in doing this.

### **FOREST SERVICE RESOLUTION REGARDING PAYMENT IN LIEU OF TAXES**

The County Manager addressed information received from the North Carolina Association of County Commissioners regarding the payment in lieu of taxes distribution. He explained counties were being given two options on which they could act: 1) Would be to receive the traditional distribution; or 2) Use a new formula set by the federal government that would increase the amount of the County's allocation. With the latter option, the County would have to reserve at least 15% of this new amount for forest service related emergency situations.

Mr. Abernathy introduced a resolution for the Board's approval for making its selection between the two options.

A brief discussion followed.

A motion was then made by Commissioner Lavender to approve the option reserving 15% of the new amount. Commissioner McPeters seconded the motion and the vote was unanimous, thereby approving the resolution as follows:

**COUNTY OF McDOWELL  
RESOLUTION**

**Purpose:** Selection of Secure Rural Schools HR 1424 (PL 110-343 – Sect. 601(a), Division C) Safety Net Formula Payment and Designation of Set Aside Percentage for Title III Projects

**WHEREAS** counties having United States National Forests within their boundaries have received Forest Reserve funds for roads and schools since the passage of the Agricultural Reapportionment Act of 1908 based on revenues generated from these forests; and

**WHEREAS** these counties have substantial areas of land in public ownership which can neither be developed nor taxed to generate revenue from economic activity or taxation; and

**WHEREAS** the demands for education and roads have in most jurisdictions continually increased while Forest Reserve revenues have declined; and

**WHEREAS** the Congress of the United States has seen fit to pass PL 110-343, which provides a four (4) year safety net whereby counties may either receive the traditional annual payment from the Forest Service or select four years of payments based on a formula provided in the legislation.

**WHEREAS** PL 110-343 specifies that each forest county has an option to select either: (a) remaining on the traditional 25% Forest Reserve Receipts payment system or (b) selecting the full payment system set forth in Title I of PL 110-343; and

**WHEREAS** it is understood that counties which select the PL 220-343 full payment (safety net) option are doing so for the full four (4) year life of the bill; and

**WHEREAS** PL 110-343 makes provisions for safety net payments to counties for up to four (4) years with either 15% to 20% of these funds being allocated to projects which would enhance the health and safety of US National Forests.

**BE IT THEREFORE RESOLVED** that McDowell County and its impacted school districts, hereby select to receive their forest reserve payments as set forth below (specify one):

- Full Safety Net Payment amount as per PL 110-343; and

**BE IT FURTHER RESOLVED** that McDowell County, which has elected to receive safety net payments under the provisions of PL 110-343, hereby designates 15% of its safety net payments to be allocated to Title III projects under this legislation; and

**BE IT FURTHER RESOLVED** that this selection be communicated to the Governor of the State of North Carolina, by November 13, 2008 via communication with the State Controller's Office.

Approved the 10<sup>th</sup> day of November, 2008.

Signed:

Andrew K. Webb  
Chairman, Board of County Commissioners

Date: November 10, 2008

Carrie Padgett  
Clerk to the Board

Date: November 10, 2008

### **BOARD APPOINTMENTS**

Chairman Webb pointed out the request from the Region C Workforce Development Consortium to appoint Steve Early, Foothills Industries CEO, to represent the non-profit sector with the Consortium. The appointment would replace Joy Shuford who had found it necessary to resign due to family issues.

A motion was made by Commissioner Buff to suspend the rules and to appoint Steve Early to the Region C Workforce Development Consortium. Commissioner Lavender seconded the motion and the vote was unanimous.

### **TAX RELEASES AND REFUNDS**

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

Motor Vehicle Releases/Under \$100.00	Released amount of \$842.81
Motor Vehicle Releases/Over \$100.00	Released amount of \$125.33
Release Refunds	Refunded amount of \$135.17
Releases/Under \$100.00	Released amount of \$1,336.37

Releases/Over \$100.00

Released amount of \$13,395.92

A motion was made by Commissioner McPeters to approve the tax releases and refunds as presented. Commissioner Walker seconded the motion and the vote was unanimous.

### **REPORTS AND COMMUNICATIONS**

The meeting on November 24<sup>th</sup> with the Marion City Council was discussed. The Board considered whether to meet in the Commissioners' Board Room or at City Hall. By consensus, the Commissioners agreed to join Council for dinner at Carolina Chocolatiers and to recess to the Commissioners' Board Room for the actual meeting. With reference to the budget situation, Chairman Webb stressed the importance of keeping an open mind, having good communications, etc. With the current layout of the Board Room, the Board agreed to have tables set up on the main level of the room to provide seating and to bring everyone together.

Commissioner Lavender asked if there could be discussion of sales tax fees, connection fees and annexation issues. There was discussion on whether to televise the meeting since it is a public meeting. Everyone agreed to have the meeting televised although it was noted the City may not agree. One member of the Board advised he was willing to hold the meeting in the County facility but would not want to carry the camera elsewhere. While the County Manager said the City's expectation was that the meeting would be held over dinner, everyone expressed hope that they would agree to meet in the County building.

Chairman Webb briefed addressed some correspondence he had received related to the School System. Mr. Abernathy advised he would respond to Dr. Trollinger and communicate the Board's desire.

Commissioner Lavender made a motion to move forward the Citizen Comment period. Commissioner McPeters seconded the motion and the vote was unanimous.

### **CLOSED SESSION/PROPERTY MATTER**

Chairman Webb stated the Board would go into closed session for a property matter in accordance with G.S. 143-318.11, section 5.

In his role as Economic Development Director, County Manager Chuck Abernathy updated the Board on a project on which the County is currently involved.

By consensus, the Board agreed to go out of closed session.

**REGULAR SESSION RESUMED**

When back in regular session, Chairman Webb stated the Board had just come out of closed session with no action taken following discussion.

**CITIZEN COMMENT**

Scottie Willis, a resident of Pleasant Gardens, had signed up to speak on the Veterans Memorial on the Courthouse Lawn. Again, Mr. Willis stated he wants to see the Memorial returned to its original state. Noting that tomorrow, November 11<sup>th</sup>, would be Veteran's Day, he stated 20 years ago he was the happiest man alive when the Memorial was erected on the Courthouse Lawn.

Mr. Willis shared with the Board some of his research on Veterans Memorials in other towns and cities that he has visited.

**DISCUSSION OF DECEMBER MEETING**

Following a brief discussion, by consensus the Board agreed to hold its regular meeting for December on the first Monday as required in an election year. The County Manager said this would work best for him as well.

**ADJOURNMENT**

There being no further business to transact at this time, upon motion by Commissioner Lavender and a second by Commissioner McPeters, the meeting was adjourned.

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ANDREW K. WEBB, CHAIRMAN

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CARRIE PADGETT  
CLERK TO THE BOARD