

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
BOARD OF COMMISSIONERS
REGULAR SESSION – JUNE 8, 2009**

ASSEMBLY

The McDowell County Board of Commissioners met in regular session at 5:00 p.m. on Monday, June 8, 2009, 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 Reporters Mike Conley for THE McDOWELL NEWS, and Wendy McAnally for THE NEWS BULLETIN OF McDOWELL COUNTY.

CALL TO ORDER

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

APPROVAL OF MINUTES

Minutes of the May 11, 2009 regular session, the May 13, 2009 and the May 26, 2009 adjourned sessions were presented for approval.

With no corrections made, upon motion by Commissioner Lavender and a second by Commissioner McPeters, the minutes of May 11, 2009, May 13, 2009 and May 26, 2009 were unanimously approved as recorded.

APPROVAL OF AGENDA

In reference to new business item "B. Resolution Regarding Merchant Marine", Commissioner Webb asked that this item be tabled until the next regular meeting, based on information just received from the County Manager.

Commissioner Buff made a motion to table the item as requested. Commissioner McPeters seconded the motion and the vote was unanimous.

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

RECOGNITION OF JOHN REESE – CERTIFICATE OF APPRECIATION

Chairman Walker recognized John Reese, former Forest Ranger in McDowell County who had recently retired. He mentioned a very special presentation he would make a little later but first asked the County Manager to speak.

Mr. Abernathy said John had been around probably longer than any one present tonight, noting that his presence was known by all the emergency services people in the County, but otherwise it was a “behind the scenes” situation with John, volunteering countless hours at the County’s Communications Center. He said because of this, he felt it was appropriate to do something special for John.

Mr. Abernathy recognized Mr. Reese’s wife Janet, and Scott Ellis from the Forest Service, who were also present.

Emergency Management Director Terry Young spoke of John’s dedication and the countless hours he had given to all agencies of emergency services, during snow storms and other adverse situations. He said John had been a real asset to McDowell County.

On behalf of the staff of Emergency Medical Services, Director William Kehler thanked John for his many years of volunteer service and wished him well in his retirement.

The Chairman gave each Commissioner opportunity for comments. While each one wished Mr. Reese well in his retirement, they all had a particular incident or experience to share about their relationship with him over the years. Commissioner Lavender spoke of the pleasure of getting to know Mrs. Reese as well through her work in his son’s classroom at Pleasant Gardens Elementary School. Commissioner Webb thanked Mrs. Reese and other members of the family for standing with John and supporting him over the years in his work with the Forest Service, noting there were times of concern no doubt when he was away from home.

Commissioner Webb commented on the new building and the progress being made, noting that John was very instrumental in making sure the Forest Service got a good position on a piece of property that would accommodate their equipment, with potential for growth and that was strategically located for fire service. As a result of this cooperation, McDowell Tech is realizing a benefit as well, one of which they had been hopeful for many years.

Chairman Walker called John forward and gave him opportunity to speak. Mr. Reese thanked everyone for their kind words, and said he is proud to be a citizen of McDowell County and to be associated with its people. He said his success was totally based upon the people with whom he had surrounded himself, all the previous boards, the various agencies, and local folk that are there to help during the tough times. He said he was staying around and would be available in case he was ever needed.

Commissioner McPeters then read a bio summary of Mr. Reese's career with the North Carolina Forest Service. He retired on April 30, 2009 after 35 years of service, 27 years of which were spent as McDowell County's Forest Ranger.

On behalf of the Board, Commissioner Webb presented a "Certificate of Appreciation" to Mr. Reese and Chairman Walker presented an award to him on behalf of Governor Beverly Perdue, the *Order of the Long Leaf Pine*.

PRESENTATION OF NCACC AWARD

The Chairman welcomed David Nicholson of the North Carolina Association of County Commissioners for presentation of an Outstanding County Program Award.

Each year the Association recognizes outstanding county programs through their Outstanding County Program Awards competition. The intent is to recognize and share information with other counties about programs that involve a uniquely innovative process, solution or idea to address a county issue and/or to prevent a future problem from developing.

Mr. Nicholson advised this is the most prestigious award the Association can give to a county. He said more than 30 applications were submitted this year and 7 were selected for the award, 4 of which were from WNC. McDowell County received one of the four awards for a program the EMS runs. Mr. Nicholson asked William Kehler, Emergency Medical Services Director, to give a brief overview of the program.

William Kehler advised the application submitted several months ago was by EMS was for therapeutic hypothermia program, a procedure that is cutting edge medicine. He stated that in November, 2008, it was estimated that only 100 agencies in the United States was performing this procedure, and McDowell County EMS was the second agency in the State, following Wake County EMS. McDowell County is the first county in Western North Carolina and the first rural county in the State to implement this procedure. It is used with patients experiencing cardiac arrest and, once they are resuscitated, the procedure drops the patient's core body temperature to 93 degrees. He said the end result of this procedure is the hard work of the entire EMS staff, as well as good community support through the fire and rescue departments.

On behalf of the North Carolina Association of County Commissioners, Mr. Nicholson presented a gift certificate to the McDowell EMS for their program, and

presented the Outstanding County Program Award to Chairman Walker for McDowell County and its Board of Commissioners.

Chairman Walker called forward all EMS staff present to be recognized.

RESOLUTION INCREASING THE MINIMUM TAX BILL

The County Manager recognized Tax Collector Pam Sain and Chief Deputy Tax Collector Phyllis Ryan, noting staff was recommending that changes be made in the minimum tax bill. The one currently used by McDowell County is \$1.00. Mr. Abernathy explained that many if not most counties use a higher number and base this on the cost to produce, print, mail and process the bill.

Tax Collector Pam Sain requested approval of a resolution for increasing the minimum tax bill from \$1.00 to \$3.01. North Carolina General Statute 105-321(f) provides for taxing units to set a minimal tax bill amount of \$5.00 or less. Mrs. Sain explained that bills of \$3.00 and under would not be billed and that a record of the unbilled amounts would be kept as required by General Statute. She advised that a review of the 2008 bills from \$1.00 to \$3.00 showed there were approximately 500 bills with a total tax amount of approximately \$1,000.00 for an average of \$2.00 per bill. The average estimated cost to bill and collect these 500 bills is \$3.07 per bill.

In discussion, the Tax Collector advised the change in the minimum tax bill would be in relationship to taxes on vehicles and other personal property as well as real estate bills. She said a report would be generated to detail those tax bills written off, which would be on the original tax bill.

A Resolution Directing the McDowell County Tax Collector not to Collect Minimal Taxes was introduced for the Board's consideration and approval.

Commissioner Buff made a motion to approve the Resolution as presented. Commissioner Webb seconded the motion and by a unanimous vote, the Resolution was approved as follows:

RESOLUTION DIRECTING THE McDOWELL COUNTY TAX COLLECTOR NOT TO COLLECT MINIMAL TAXES

WHEREAS, N.C.G.S. 105-321(f) authorizes the governing body of a taxing unit that collects its own taxes to direct, by Resolution, its Tax Collector not to collect minimum taxes charged on the tax records and receipts; and

WHEREAS, minimal taxes are defined by North Carolina General Statute 105-321(f) as the combined taxes and fees of the taxing unit and any other units for which it collects taxes, due on a tax receipt or on a tax notice in a total original principal amount that does not exceed an amount, up to \$5.00, set by the governing body; and

WHEREAS, the McDowell County Tax Collector has determined that the estimated cost to the County of McDowell of billing and collecting for the amounts due on a tax receipt or notice is \$3.00; now, therefore,

BE IT RESOLVED by the McDowell County Board of Commissioners that the McDowell County Tax Collector is directed not to collect the combined taxes and fees for McDowell County and all districts or governmental agencies for which the County collects taxes due on a tax receipt prepared pursuant to G.S. 105-320 or on a tax notice prepared pursuant to G.S. 105-330.5 when the total original principal amount is \$3.00 or less; and

BE IT FURTHER RESOLVED that pursuant to N.C.G.S. 105-321(f) the Tax Collector shall not bill the taxpayer for, or otherwise collect, such minimal taxes but shall keep a record of all such minimal taxes by receipt number and amount and shall make a report of the amount of these taxes to the McDowell County Board of Commissioners at the times of settlement; and

This Resolution shall be in effect with respect to Fiscal Year 2009-2010 and shall remain in effect until amended or repealed by resolution of the McDowell County Board of Commissioners.

ADOPTED this the 8th day of June, 2009.

PUBLIC HEARING ESTABLISHING A WOODLAWN SERVICE DISTRICT

At 5:35, Chairman Walker declared the Board in public hearing and the County Manager stated the purpose of the public hearing was to consider the creation of a service district in the Woodlawn Fire Department Response Area. Mr. Abernathy advised the work necessary to satisfy the requirements had been done and staff and members of the Fire Department were present to answer questions.

The Fire Chief presented a map of the service area to the Chairman. He explained they had held their public hearing and that most firemen are in favor of the proposal. He advised they will assist with mutual aid down to Wild Acres Retreat and on the Parkway for initial dispatch.

The Fire Chief reviewed the map with the Commissioners and further explained the service district area.

Chairman Walker opened the floor for comments. Bill Carson, President of Little Switzerland Community Association, owner of the Orchard at Altapass, and past chairman of the McDowell County Committee of Natural Resources, spoke in favor of the tax. He stated the residents of Little Switzerland had enjoyed the protection from the Woodlawn Fire Department without the benefit of paying the taxes for some time. However, he advised they would probably be back before the Board soon to rectify a

difficult situation that exists there on the mountain. He proceeded to explain their service district does not cover the entire area and they are concerned about their fire code 10 rating while residents a quarter of a mile away on the Parkway have a code 6 rating. He said the fire code 10 rating, which applies to most of them, is becoming harder to insure. So, they are, with the fire chiefs on both sides, working to establish a district that McDowell County could contract to the Parkway that would mean the development up there so that people can get insurance.

In conclusion, Mr. Carson stated they owe a tremendous debt to the firemen and they support the tax. However, he said they would be back, with agreement of the two fire departments, to ask for the Board of Commissioners to establish another service district that will include some of the homes in McDowell County.

No one else spoke concerning the proposed service district.

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

The County Manager explained the proposed service district area and the request being made by the Fire Department, pointing out that notices had been mailed to every resident within the proposed service district area.

Concerning Mr. Carson's request for the Little Switzerland area and their inability to purchase insurance except for code 10 rating, Mr. Abernathy noted there would need to be an agreement for some cost sharing between the two departments for fire service, with details being worked out between the two fire departments for fiscal years (2009-10 and 2010-11).

A brief discussion followed on the number of homes involved, the amount of money a 4 cents rate would generate, distance and water supply, and the attitude of residents in that being willing to work out a mutual aid agreement for the benefit of everyone.

A Resolution Creating a County Service District for Fire Protection in the Woodlawn Fire District was introduced for the Board's consideration.

Commissioner Lavender made a motion to approve the resolution and to acknowledge the Board's intent to proceed with negotiations with Mitchell County to establish a service district. Commissioner Webb seconded the motion and the resolution was approved by unanimous vote as follows:

**McDOWELL COUNTY RESOLUTION
CREATING A COUNTY SERVICE DISTRICT FOR FIRE PROTECTION
IN THE WOODLAWN FIRE DISTRICT**

WHEREAS, G.S. 153A-301 establishes various services that may be provided in a district by County government to a greater extent than those financed for the entire county; and

WHEREAS, G.S. 153A-301 establishes fire protection as one of those services that may be provided by a service district; and

WHEREAS, the territory described in the attached map and marked Exhibit A defines the Woodlawn Fire District and this district is outside any corporate limits of a city or sanitary district; and

WHEREAS, a public hearing was held on June 8, 2009 with public notice consistent with the General Statutes; and

WHEREAS, the Board of Commissioners have determined that this fire service is best provided on a district basis and that there is a demonstrable demand for the services by persons residing in the district.

NOW, THEREFORE, BE IT RESOLVED that the McDowell County Board of Commissioners hereby establishes a County Service District to be entitled the "Woodlawn Service District" and is described on the attached map marked "Exhibit A".

FURTHERMORE, that this service district is created for the purpose of providing fire protection and shall take effect July 1, 2009.

ADOPTED, this 8th day of June, 2009.

ECONOMIC DEVELOPMENT CONTRACTS

In review, the County Manager stated the Board had, at its May meeting, held a public hearing and authorized an incentive package for two economic development projects, but had not approved the related contracts. He advised those contracts, one for Baldor Electric Company and one for Morganton Pressure Vessels, LLC were now ready for approval.

Commissioner Lavender made a motion to approve execution of the contracts as presented. Commissioner McPeters seconded the motion and the ayes carried unanimously.

TAX MATTERS

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 \$750.24
Releases Over \$100.00	Released amount of \$5,236.77
Release Refunds	Refunded amount of \$946.03
Motor Vehicle Releases Under \$100.00	Released amount of \$469.43

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

BOARD APPOINTMENTS

In review, the County Manager advised there were two vacancies on the Library Board, one a reappointment to represent the Montford Cove area with Kenneth Walters as applicant. Since there was no applicant for the Pleasant Gardens area, a Commissioner had suggested contacting the PTO to assist in finding an applicant. There was also one vacancy on the McDowell Tech Board of Trustees, a reappointment with Mitch Gillespie as applicant, and one on the TDA but no applicant. These vacancies were presented on second reading.

A vacancy on the Jury Commission was presented on first reading. Marjorie Caudle had applied for reappointment. Mr. Abernathy noted that on occasion the Board had suspended the rules and appointed on first reading.

Chairman Walker asked that ballots for the Library and McDowell Tech Boards be completed and passed on to the Clerk for tabulation. Results were a unanimous vote for Kenneth R. Walters to the Library Board and for Mitch Gillespie to the McDowell Tech Board.

Concerning the vacancy on the Jury Commission, Commissioner Lavender made a motion to waive the second reading and appoint Marjorie Caudle to the Jury Commission. Commissioner McPeters seconded the motion and the vote was unanimous.

PUBLIC HEARING – CDBG GRANT FOR THE DOLLAR ZONE

At 6:00 p.m. as duly advertised, Chairman Walker declared the Board in public hearing regarding a Community Development Block Grant application.

The County Manager welcomed the two representatives of the Dollar Zone, noting they had appeared before the Board two meetings ago when the first public hearing was held. He explained the CDBG Program requires that two public hearings be held. The first one is more of an announcement of the program itself and less specific of the application being made. The second one is by law more specific on the application being made, how the funds will be used, etc. He noted that Paula Kempton, of Isothermal Planning and Development Commission, had planned on being present tonight but had another meeting to attend.

In Mrs. Kempton's absence, Mr. Abernathy advised the purpose of the hearing was to receive comments regarding McDowell County submitting an application to the N.C. Department of Commerce for a Community Development Block Grant Small Business Entrepreneurial Assistance Program. The County intends to apply for \$250,000 that if funded will assist Vendor Village in their efforts to expand and renovate an existing building and create approximately 10 new jobs in the County.

Funding eligibility is contingent upon the creation or retention of permanent full time jobs at least 70% of which must be made available to persons earning 80% or less of the median income for the area within the previous twelve months. McDowell County's 2008 median income was \$44,000 and 2009 is \$46,800.

CDBG funds are provided to the state by the U.S. Department of Housing and Urban Development (HUD). They are administered at the state level by the N.C. Department of Commerce through the Division of Community Assistance and the Commerce Finance Center.

Mr. Abernathy briefly explained what the ladies have planned, their concept on leasing space, etc.

Mrs. Johnson briefly addressed their business plan, how the money will be used, etc., noting that they had met with staff from Isothermal concerning what their next steps will be. The Commissioners complimented the ladies on having a good business plan and wanting to help other small businesses. The Board wished them well in their new venture.

The Chairman opened the floor for comments from the public but no further comments were heard.

Commissioner Lavender made a motion to close the public hearing. Commissioner Buff seconded the motion and the vote was unanimous.

Commissioner Webb made a motion to endorse the CDBG grant for Dollar Zone as presented. Commissioner McPeters seconded the motion and the vote was unanimous.

UPDATE FROM DAVISONS'S FORT

At 6:08 p.m., with consensus of the Board, Chairman Walker advised they would move forward with this item rather than wait for the appointed time of 6:15 since those involved were present. He called Mark Hall forward for their presentation.

Mr. Hall introduced his fellow board members who were Debbie Acrivos, Joe Williams, Drew Heldman, and Rick Acrivos who would give an update on their activities.

Mr. Acrivos, owner of Catawba Falls Campground, assured the Commissioners that the Davidson's Fort Board of Directors was continuing their efforts to build the Fort. He said, however, they had fallen on difficult times due to the economic situation and the original agreement on the land had faltered. The owner of the land, who had worked with them for three years, has finally had to withdraw the agreement. Now they want to move the stockade to a smaller portion of the land already in possession of Board member Gary Jones. They had agreed to an adjustable rate loan which would provide them a two-year window in which to raise \$35,000 needed for a down payment for a standard 30-year loan to retire their adjustable loan. He advised they have several grants that will enable them to continue the building (Rural Center grant will provide \$30,000 to build a welcome center) and all future monetary contributions will be used to retire the loan. Their total contributions to date from 2006 were \$32,678.67 in individual and business contributions, \$14,000 in community foundation grants, and \$75,000 with the Rural Center grant.

Mr. Acrivos said one might wonder if rebuilding Davidson's Fort is worth it. He proceeded to give a brief summary of similar projects such as Fort Boonesboro in Kentucky which has greatly enhanced the area. He said they envision that Davidson's Fort will do the same for McDowell County and surrounding areas.

Mr. Acrivos advised the Davidson's Fort Board of Directors was requesting \$6,000 from the County for two years (\$12,000 total), noting they feel that amount will be repaid many times over.

In discussion with the Board, Mr. Acrivos said they plan to request \$6,000 from TDA for two years for a mortgage payment, noting that in fact TDA had already agreed to match anything the County contributes.

In further discussion, the idea was mentioned of having this as an item in a budget session, and consensus was to postpone the request until that meeting. Commissioner Buff asked about the role of Old Fort in this project. In response, Mr. Acrivos said their involvement would be in sewer and water line work, etc.

Commissioner Webb mentioned the promotional tape running on the Cable Channel in the last few days involving WLOS personality Bob Caldwell. He said he was very impressed with it and that someone had done a great job promoting this project.

Chairman Walker noted the Board's upcoming budget meeting, advising that Davidson's Fort would be hearing further from the Board.

SALES TAX AGREEMENT

The County Manager advised he had copied for the Board the signed sales tax agreement under which the County is operating as a point of reference, in addition to two recommended sales tax documents, and a new one with portions of it underlined. He pointed out the City Manager requested that he remove from the signed copy the items called "water system" and "skate park issues", suggesting that they would be in the "water agreement" that would be negotiated and, at that time, he had agreed with that.

Mr. Abernathy proceeded to review the document, noting changes made from the original agreement. He noted that water issues were not removed as he had first attempted to do.

Concerning the issue of the Skate Park, Mr. Abernathy explained that he had a Skate Park Policy on the agenda at first but had removed it because he did not complete the work on it. He asked that the Board review both documents tonight and have the Utility Committee review it as well, and then make a decision later.

Chairman Walker allowed each Commissioner opportunity to speak concerning the proposed document. By consensus, the Board agreed that it be postponed.

WATER PURCHASE AGREEMENT/UPDATES

The County Manager advised there were three issues for which a document was necessary, noting that he had received help but had put all three issues together in one document. Mr. Abernathy said the City Manager had reviewed the document and had basically agreed with it but would pass on to his board for review as well.

Mr. Abernathy expressed his appreciation of the help and assistance afforded by the City Council, noting the City Manager's suggestion to have the document effective on August 15th in accordance with a billing cycle. He proceeded to review the document, noting the requirements or responsibilities of the County to operate a system.

The Board gave input individually on the document, with it being noted some of their concerns and questions might best be answered in a Utility Committee meeting which would take place later in the month.

In discussion, Mr. Abernathy noted the City had actually agreed to transfer some very good customers, such as the Post Office, the School, etc.

Chairman Walker thanked Commissioner Buff and Commissioner Webb for their work in the Utility Committee.

In conclusion, Mr. Abernathy noted the press release draft addressing the fact that the Sherwood Forest Neighborhood now has access to County water, the engineer's Certification, the letter drafted by Ashley Wooten to residents of South Creek Road area signed by Mr. Abernathy.

A brief discussion followed.

MA ADVISORY BOARD

The County Manager advised the Board had given direction in a budget meeting for the creation of a Marion Area Advisory Board. He had notified the City Manager and discussed the idea with him. As a result, he presented a resolution, in draft form, noting he would ask that it be reviewed but not approved tonight. The name "Marion Area Advisory Board of Directors" is the one suggested for the Board.

Mr. Abernathy then reviewed the proposed document, stating it is a starting point.

A brief discussion followed with the Board agreeing that a week be given for changes to be submitted and they would still have a week for review.

REPORTS AND COMMUNICATIONS

The County Manager noted the Firemen's Association Banquet on June 27th, 6:30 p.m. at Countryside BBQ. Also, the dedication of the new McDowell Firing Range, a partnership of McDowell County, the Division of Prisons, and McDowell Tech. This event will take place at the site off Highway 226 South on June 17th.

Concerning the Budget, Mr. Abernathy suggested another meeting on Wednesday, June 10th or Friday, June 12th. Following a brief discussion, the Board agreed to meet on June 10th at 7:00 a.m., and to adjourn by 8:30 a.m.

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 until Wednesday, June 10, 2009 at 7:00 a.m. to continue work on the Budget for FY 2009-2010.

DAVID N. WALKER, CHAIRMAN

CARRIE PADGETT
CLERK TO THE BOARD