

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
BOARD OF COMMISSIONERS
REGULAR SESSION – APRIL 13, 2009**

ASSEMBLY

The McDowell County Board of Commissioners met in regular session at 5:00 p.m. on Monday, April 13, 2009, in the Commissioners' Board Room, the usual meeting place.

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; Terry DePoyster, Facility Maintenance Director (Video); and Mike Conley, Reporter 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 Buff.

APPROVAL OF MINUTES

Minutes of the January 12, 2009, February 9, 2009, and the March 9, 2009 regular sessions were presented for approval.

Upon motion by Commissioner McPeters and a second by Commissioner Webb, the three sets of minutes were unanimously approved as recorded.

APPROVAL OF AGENDA

With no additions made to the agenda, upon motion by Commissioner Webb and a second by Commissioner Buff, the agenda was unanimously approved as presented.

BUDGET UPDATE AND RESOLUTIONS TRANSFERRING PROPERTY

A budget review had been scheduled each meeting since October, with amendments. The County Manager advised while he did not have any amendments at

this time, he did have two items that he wanted to discuss. First was the sales tax report showing the latest revenue which he said was on target with the amended figures. Second was the tax collections report showing a 92.98% collections rate, about a third more than at this time last year. Mr. Abernathy pointed out he had taken very substantial steps to address the budget situation, the usual case but more so recently, and that he would continue to do a budget review.

Mr. Abernathy presented two resolutions for the Board's adoption to authorize the donation of personal property to a non-profit organization. The first resolution would authorize the transfer of a damaged 2006 Stryker Power Pro Stretcher to the McDowell County Rescue Squad. Trident Insurance compensated the County at replacement cost for the stretcher and, as a result, the stretcher cannot be used again at EMS.

The second resolution would authorize the donation of one Heimann HS2416 X-Ray Machine, Serial #13521 to Burke County Law Enforcement Agency for public purpose.

In discussion, Commissioner Buff asked if a reversion clause could be added to the resolutions as a safeguard. By consensus, the Board agreed to add the reversion clause to both resolutions.

Commissioner Lavender made a motion to approve both resolutions as amended. Commissioner Buff seconded the motion and by a unanimous vote, the resolutions were adopted as amended.

TOOLCRAFT CONTRACT

Concerning the contract with Toolcraft, Inc., for which the Board had held a public hearing last month for the addition of 25 jobs, the County Manager advised the contract was written initially to be spread over two years, but he had adjusted it for three years. Last month the Board had voted to proceed but had not authorized execution of the contract. Since then, the company had signed the contract and is adding the jobs.

Commissioner Lavender made a motion to approve the Toolcraft Contract as presented. Commissioner Buff seconded the motion and the vote was unanimous.

DGR CONTRACT AMENDMENT

In a general background, the County Manager pointed out the Board had approved the Internet Company in the Industrial Park over a year ago. A Golden Leaf grant in the amount of \$120,000 was received to construct the road into the property. The County had paid the contractor for this amount out of last year's budget and is eligible for reimbursement. The owner of DGR had suggested that McDowell County should assume half the responsibility for a potential repayment if the project does not occur since the road serves a second property. Mr. Abernathy felt this arrangement was logical as the road does serve two sites. Further, the owner wished to have the terms of the original

contract extended eighteen months since due to the slowdown in the economy, he was unable to proceed at this time. The extended contract would be for beneficial occupancy from April 1, 2009. Mr. Abernathy pointed out the contract is between Golden Leaf and the company, not the County and Golden Leaf.

Commissioner Buff made a motion to approve the contract extension for 18 months. Commissioner Lavender seconded the motion.

In discussion, Commissioner Webb asked to be excused from voting and, by consensus, this was granted.

When put to a vote, the motion carried by a unanimous vote of four (4).

Commissioner Buff then made a motion to authorize the County assuming responsibility for half of the repayment on the grant should the project not occur due to the road serving a dual purpose. Commissioner Lavender seconded the motion. Again, Commissioner Webb asked to be excused from voting on the motion and by consensus, his request was granted.

When put to a vote, the motion carried by a unanimous vote of four (4).

BOARD APPOINTMENTS

Two members (Stuart M. Simmons and Boyce F. Pool) of the Agricultural Advisory Board were due to rotate off the Board, but both could be reappointed if they chose to reapply. Both had reapplied and there were no additional applicants for the Board's consideration.

Commissioner Lavender made a motion to reappoint Boyce F. Pool and Stuart M. Simmons to the Agricultural Advisory Board. Commissioner Buff seconded the motion and the vote was unanimous.

ROAD ADDITION – BROOKFIELD LANE

The County Manager advised the Department of Transportation had received a request to add Brookfield Lane off SR 1412 (Mackey Creek Road) in McDowell County to the state system. The road is .17 mile in length with six (6) occupied homes having street frontage.

Commissioner McPeters made a motion to approve the request to add Brookfield Lane to the state system. Commissioner Lavender seconded the motion and the vote was unanimous.

RESOLUTION REGARDING SECONDARY ROADS

Chairman Walker said Commissioner Webb had asked to have this item added to the agenda, noting that legislation had been introduced that would transfer the secondary roads maintenance and responsibility to counties in the State. He asked Commissioner Webb to lead the discussion.

Commissioner Webb addressed the issues regarding the proposed legislation, expressing his concerns of the impact this would have on counties. He asked other Board members to really let everyone know that they, as a Board, are opposed to this legislation.

In comments from other members of the Board, reference was made to a statement from the Association of County Commissioners that if County Boards want to default, they might need to get in the road business because this was what had happened before. The additional property tax that would be needed to take over the road business was mentioned, and it was noted that counties have done a good job in saving money and being good stewards and that he resented the comment made that counties have “money in the bank”. Commissioner Lavender commented that “if we have such an account, he would like to see it”.

The County Manager pointed out he understood the idea for transferring maintenance of secondary roads was introduced by someone in Mecklenburg County. He said he has heard the idea is not going anywhere but the County needed to be really sure.

Commissioner Buff made a motion to send a resolution stating that McDowell County is not in support of taking over roads. Commissioner Webb seconded the motion and the vote was unanimous.

GOLDEN LEAF GRANT DISCUSSION

The County Manager made reference to a recent meeting with Golden Leaf officials during which they had addressed the community assistance initiative which they would be sponsoring. He advised this meeting which was held concurrently with the revaluation team’s presentation to the Board.

The objective for Golden Leaf’s initiative is to establish a grants program that targets communities of need and provides direct support for projects that significantly enhance the quality of life within these communities.

Mr. Abernathy advised Golden Leaf would come in to make a presentation, and that more information would be forthcoming.

RECEIPT OF ANIMAL CONTROL ORDINANCE

Chairman Walker said the Animal Control Ordinance is received on first reading and he asked that it be carefully reviewed. The County Manager pointed out it should be understood by everyone involved that even a second reading does not have to be with approval. He said Ron Harmon would highlight the statutory aspects of the document and would produce another document. Chairman Walker also noted there was another copy being made available by a citizen.

RIGHT OF WAY AGREEMENT ON HIGHWAY 226 SOUTH

The County Manger advised the North Carolina Department of Transportation was in the process of planning for the replacement of the bridge near the County Garage and McDowell Technical Community College. During this process, the State will need a small strip of land near the County Garage on Highway 226 for right of way. The project will take about a year and the State will pay the County \$6,000 for the right of way which is the amount determined as its value. They are viewing it as federal money and not state money and that it serves a public purpose. They will handle the legal work which will be reviewed by the County Attorney.

Commissioner Lavender made a motion to accept the Summary Statement/Offer Letter from the Department of Transportation granting \$6,000 for the purchase of right of way for the bridge replacement. Commissioner and McPeters seconded the motion and the vote was unanimous.

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 \$354.71
Releases/Over \$100.00	Released amount of \$5,740.88
Release Refunds	Refund amount of \$1,775.36
Motor Vehicle Releases/Under \$100.00	Released amount of \$549.48
Motor Vehicle Releases/Over \$100.00	Released amount of \$266.18

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

MAY MEETING WITH COOPERATIVE EXTENSION

The County Manager stated the May meeting was taking shape with two or three public hearings and maybe a discussion of broadband extension. With that in mind, Mr. Abernathy said he had mentioned to Extension Director Dan Smith about scheduling part of the business matters prior to having dinner and then after dinner, the Board could return to the Board Room to continue with the agenda. He asked if the meeting could start early next time, perhaps at 4:00 p.m.

By consensus, the Board agreed to start the May meeting at 4:00 p.m. and to move Citizen Comment to 6:00 p.m.

PUBLIC HEARING – CDBG CLOSEOUT INFRASTRUCTURE WATER HOOKUPS AND PUBLIC HEARING – CDBG CONCENTRATED NEEDS CLOSEOUT

At 5:45 p.m. as duly advertised, the Chairman introduced Paula Kempton and Beth Pollard, staff from Isothermal Planning and Development Commission, and declared the Board in public hearing for the purpose of closing out the CDBG for Water Hook-Ups.

Mrs. Pollard stated the purpose of the public hearing was to receive comments from the residents concerning the County closing out a 2008 CDBG Infrastructure Water Hook-Up Project. In January 2008, McDowell County received \$36,000 in CDBG funds from the N.C. Department of Commerce, Division of Community Assistance to connect approximately 10 income qualified residents to the public water system. The County connected 10 units and expended \$30,742.75. Any remaining funds will be de-obligated.

Chairman Walker opened the floor for comments from the public. No comments were heard.

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

Commissioner Lavender then made a motion to approve the close out of the CDBG for Water Hook-Ups. Commissioner McPeters seconded the motion and the vote was unanimous.

Chairman Walker again declared the Board in a public hearing for the purpose of closing out the Little Mountain Concentrated Needs CDBG.

Mrs. Pollard stated the purpose of the public hearing was to receive comments from the residents concerning the County closing out a 2006 Community Development Block Grant Concentrated Needs Project. The County was awarded \$700,000 of CDBG funds and committed \$100,000 in local funds to complete eligible activities including planning, administration, public water improvements, home rehabilitation and clearance

and replacement of units in the Little Mountain area of Nebo. The County proposed and completed substantial rehabilitation repairs on 2 housing units; 4 dilapidated units were demolished and cleared; and 3 units were replaced with SWMH on permanent foundations. Approximately 18000 LF of new water lines were constructed and 15 LMI housing units were connected to the new water line using CDBG funds.

Chairman Walker opened the floor for comments from the public. No comments were heard.

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

Commissioner Lavender then made a motion to approve the close out of the 2006 CDBG Concentrated Needs Project. Commissioner Webb seconded the motion and the vote was unanimous.

At 5:55 p.m. as duly advertised, Chairman Walker declared the Board in public hearing to close out the RDM Economic Development CDBG.

Mrs. Kempton stated the purpose for this public hearing was to receive comments from the residents concerning the County closing out a 2006 CDBG Economic Development Project. The County was awarded \$60,000 of CDBG funds and committed \$251,500 in local and other funds to complete eligible activities including planning, administration and public water improvements on Harmony Grove Road. In exchange for the water improvements, RDM Industrial Electronics committed to the creation of 5 new jobs at their facility on Harmony Grove Road and actually created 9 new jobs. The County expended a total of \$60,000 in CDBG funds.

Chairman Walker opened the floor for comments from the public; however, none were heard.

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

Commissioner Lavender made a motion to approve the close out of the 2006 CDBG Economic Development Project (RDM). Commissioner Buff seconded the motion and the vote was unanimous.

PUBLIC HEARING – CDBG GRANT/DOLLAR ZONE

At 6:00 p.m. as duly advertised, the Chairman declared the Board in a fourth public hearing to discuss the CDBG Small Business Entrepreneurial Assistance Program.

Two local ladies, Dawn Johnson and Mitsy Moody, were present to give a summary of Vendors Village, a proposed new small business endeavor offering

affordable opportunities for persons who have lost their income or have a need for extra income due to the current economic situation.

The ladies gave a general overview of Vendors Village, explaining this would allow craftsmen and artists, as well as entrepreneurs, the opportunity to display their talents or merchandise in order to supplement or become their stable income in a professional retail environment with an already established clientele of over three years. Plans are to provide secretarial work through an on-site project manager who will cashier as well. Rent will be \$35.00 to \$125.00, depending on space, etc. Vendors Village will have marketing services, with a website and newsletter.

Mrs. Kempton advised the purpose of the public hearing was to discuss funds available through the CDBG program, especially through the Small Business Enterprise Grant Program. CDBG funds are provided to the State by the U.S. Department of Housing and Urban Development (HUD), and are administered at the state level by the N.C. Department of Commerce through the Division of Community Assistance and the Commerce Finance Center.

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

Commissioner Webb made a motion to approve the submission of an application for the CDBG Small Business Program. Commissioner Lavender seconded the motion.

In discussion, Commissioner Webb pointed out that with McDowell County being a certified entrepreneurial community, etc., he would hope all possible assistance would be given the ladies in this program. He said the project is a good idea and he was impressed with the ladies' idea of providing this program.

When put to a vote, the motion carried unanimously.

In further discussion, the County Manager noted that a second public hearing would be scheduled for the project next month.

WATERLINE UPDATE AND BIDS

In his monthly waterline update, the County Manager briefly addressed the lead situation and the fact the State will soon be building a new Forest Service facility. Bids were opened for the extension of water to the new facility on March 24th, with a total of seven (7) being received. The low bidder was Patton Construction Group with a bid in the amount of \$34,500. Mr. Abernathy advised the County would be using the small animal processing grant to pay for this.

Following are other bids received:

<u>Bidder</u>	<u>Amount</u>
Davis Grading, Inc.	\$35,000.00
Cooper Construction Company, Inc.	\$37,900.00
Steppe Construction, Inc.	\$38,525.00
Landsdown Earth & Pipe, Inc.	\$40,250.00
Huntley Construction Company	\$41,810.00
BlytheCo Construction, LLC	\$42,200.00

Commissioner Lavender made a motion to approve the low bid of \$34,500 from Patton Construction Group to complete the Forest Service waterline project. Commissioner McPeters seconded the motion and the vote was unanimous.

Next, the County Manager addressed the email received from Mike Waresak, Senior Project Manager with McGill Associates, concerning the Nebo Property and the water source study, and the draft letter which Congressman Shuler's office had requested. The letter read:

March 31, 2009

Congressman Heath Shuler
356 Biltmore Avenue, Suite 400
Asheville, North Carolina 28801

Re: Appropriation Request

Dear Congressman Shuler:

McDowell County does hereby commit to secure additional funding to ensure the completion of water improvement project described in the appropriation request submitted to your office.

The request of \$3.5 million would be matched with \$2.86 million to provide for a total project of approximately \$6.36 million dollars.

Please do not hesitate to contact our office if you need any further information about this request.

Sincerely,

Charles R. Abernathy
County Manager

However, Mr. Abernathy pointed out that although the letter was drafted for his signature, he had since viewed it as something that he should not sign. He stated the letter could be sent and if something happens, it could be cancelled.

Commissioner Lavender made a motion to authorize McGill Associates for the preliminary evaluation of the additional 50-acre tract, and to authorize staff to sign the letter, committing to the required match. Commissioner Buff seconded the motion and the vote was unanimous.

Next, Mr. Abernathy noted the request from homeowners of Candee Acres Drive in Marion for consideration for city water access to their homes. Some of the issues with their existing wells were small vein lines running to their wells, sharing of wells by two homes, and frequent water shortages primarily due to the strain on wells. A petition with signatures of homeowners on Candee Acres Drive interested in connecting to city water lines had been received and was included in the agenda packet.

In discussion, Commissioner Webb stated this sounds like a critical needs similar to Watson Road, Little Mountain, etc.

Mr. Abernathy continued his update by again addressing the Nebo Water System, having a consultant come in, the fees being charged and rate for outside customers, etc. He pointed out there are people that would like to connect but cannot afford to do so, noting this will impede what is happening. He made reference to questions he had asked in the Utility Committee meeting and what the response had been. He continued to review the rates, both inside and outside limits, including those for Old Fort.

Mr. Abernathy reviewed other information about customers who would be transferring to the Nebo system, noting they would use 230 as customer base. He pointed out the County would be the third largest customer at 155 gallons, and we would have to have a minimum rate to apply for grants, etc.

WOODLAWN FIRE DISTRICT REQUEST

The County Manager introduced Gerald Trivett, Fire Chief from the Woodlawn Fire Department, who was present to discuss issues surrounding his fire district. Terry Young, Emergency Management Director, was also present.

Chief Trivett updated the Board on their request, noting there are 461 residents on their roster and they are barely above "break even". He addressed the mutual aid agreement with Mitchell County.

Mr. Abernathy advised Woodlawn had used a six-mile district (a Fire Tax District) to implement the tax. A service district was not used, meaning the area outside of the six-mile area but still in the Woodlawn response area is not taxed. He stated the Chief wanted to have the Board create a Service District in this area for tax purposes.

The Board would need to hold a public hearing at the May meeting in order to establish a district. Mr. Abernathy stated he had heard from one person but he felt that it would be good to have some communication from the Little Switzerland area about what their concerns are.

Commissioner Lavender made a motion to grant the request for a public hearing, but said he wanted to have communication in order to have both sides represented. The motion was seconded by Commissioner McPeters and the vote was unanimous.

WATERLINE UPDATE cont.

Mr. Abernathy continued his waterline update by addressing his assumptions on 50,000 gallons of water purchased for \$1.90 per thousand and what the calculations would be. He mentioned the need to negotiate on priorities (South Creek Road and Crescent Resources). Annual fees, retainage, etc. were noted for a total \$91,000. Concerning operation of the system, Mr. Abernathy noted a cooperative effort from both the City and the Town of Old Fort, and made reference to a company that the Town uses for meter reading and billing.

Discussion followed with each Board member commenting on the project. With reference to billing amounts, Commissioner Buff said he would connect immediately if he could, saying he has five rental properties to keep up. Commissioner Lavender said while he was a little hesitant and there is more time and resources to put into the project, he would support it and was interested in an ability to make it work. Chairman Walker concurred, saying he would support it in order to move forward. He advised he would like to negotiate the rates to get them down some more. Commissioner McPeters was ready to move forward, not fast, but said it is the first step. Commissioner Webb addressed the water filtration system and his desire to see it work on a county wide basis. With respect to negotiating the rate, he said he was more concerned about, whatever the rate might be, locking it in and holding it there. He stated he appreciated Mr. Abernathy's interest in wanting to proceed, noting there is a need in doing it, and he wants to keep the ball rolling.

Discussion ended with the County Manager providing a summary on what is needed as far as an agreement.

REPORTS AND COMMUNICATIONS

Commissioner Lavender gave a brief update on the Baldwin Avenue project, noting some problem on storm water drainage. He commended D.O.T. officials on their cooperation on this project and with trying to keep costs down. He stated the project is taking shape.

CITIZEN COMMENT

Chairman Walker advised three people had signed up to speak on the Animal Ordinance. The first person was Gwen Streub of 27 Magnolia Drive in Nebo. She pointed out the Planning Board had sent them the Ordinance and there was a revised copy that some of them had edited. She stated the final Ordinance still does not address their concern of tethering. Another issue was materials for shelter. With reference to Section IV, page 4, she said it is a bad idea to have this in the Ordinance.

The second speaker was Susan Menard. She expressed her concern in regard to sheltering and tethering, noting that some things seem to get changed that had not been discussed. She addressed the metal barrel aspect of sheltering.

At this point, the County Manager pointed out the Ordinance will be on the agenda later but advised the Board needed to decide if some time would be set aside to give citizens opportunity to speak. Commissioner Lavender suggested having a spokesman from each group to have comments communicated to the Board. Further directions from the Board were given directions to those present.

The last speaker was Tami Schultz. She gave some background on her experiences with animals, on being cautious and using wisdom, etc. She asked that the Board use common sense, wisdom and discernment in making its decision.

ADJOURNMENT

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

DAVID N. WALKER, CHAIRMAN

CARRIE PADGETT
CLERK TO THE BOARD