

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

ASSEMBLY

The McDowell County Board of Commissioners met in regular session at 5:00 p.m. on Monday, February 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 Reporters Mike Conley, for THE McDOWELL NEWS, and Steve Irish for THE NEWS BULLETIN OF McDOWELL COUNTY.

CALL TO ORDER

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

APPROVAL OF MINUTES

Chairman Walker asked if there were any additions or changes to the minutes. Hearing none, Commissioner Lavender made a motion seconded by Commissioner McPeters to approve minutes of the Regular Session of November 9, 2009, the Regular Session of December 14, 2009, and a Special Meeting held on December 28, 2009. The motion passed unanimously.

APPROVAL OF AGENDA

Chairman Walker asked if there were any additions to the agenda. With none being stated, Commissioner Webb made a motion to approve the agenda as presented. Commissioner McPeters seconded the motion and the vote was unanimous.

BUDGET UPDATE AND AMENDMENTS

The County Manager gave a general introduction on the budget update, amendments and noted the transfer station scale purchase as an item for approval. This review is occurring each month to ensure that the new budget format and related concerns are kept up to date.

Finance Officer Alison Morgan reviewed the Budget Amendments as presented. Questions were asked by Board members regarding the completion of the Forest Service project, travel in the Elections Department, and the renovation of the new purchase of a building on State Street.

Upon motion by Commissioner Lavender and seconded by Commissioner McPeters, the following Budget Amendments were unanimously approved:

- GF 21 Transfers funds to the self-insurance fund and the workers compensation fund. The amount transferred to self-insurance is \$172,941, considerably down from last year and does reflect a projection of costs through May. The workers compensation issue is due to a series of claims the County has experienced.
- GF 22 Receives grant funding in the EMS Department. The grant is for the purpose of training emergency medical personnel. The grant covers the cost of part-time employees to cover shifts for full-time employees while they are in training and it covers class costs.
- GF 23 Completes the Forest Service project including the lead removal on the site. The amount also includes the cost for the water line which the County was unable to fully pass on the Pilot Plant Project.
- GF 24 Transfers \$2,100 between line items in the Elections Department for Travel. Travel is required for Board members and they are sharing rooms, car-pooling, etc. This is also the only training they will incur for Board members this year.
- GF 25 Receives donated revenue for a survivor dinner, as well as a Christmas dinner for staff.
- GF 26 Increases asset forfeiture funds for equipment purchases in the Sheriff's Department.
- GF 27 Provides the funding to purchase the building on State Street for the Adult Probation offices. The amendment includes funds to renovate the State Street property (\$45,000) and to begin the small building for Building Inspections (\$20,000). Prison labor can be used on either project. The County will also bid out the bulk of the work and will not try to

accomplish this with County staff. Informal bids will be taken.

- FS1 Completes the Forest Service project including the lead removal on the site. The amount also includes the cost for the water line which the County was unable to fully pass on the Pilot Plant Project.
- SP1 Increases the ALC project budget to actual expense and also amends the budget to reflect debt service payments.
- Rec1 This amendment is necessary due to part-time pay and additional health insurance charges.
- ENT 1 This amendment is necessary due to part-time pay and additional health insurance charges.
- SII The amendment is the offsetting entry for the additional health insurance charges to departments.

The County Manager continued with an overview of revenues including the property tax and sales tax. Particular caution was voiced about the State of North Carolina budget situation and the potential for reductions in State supported programs. There was also considerable discussion on the Courthouse and the renovations of the building on State Street (the former ECS Building). The overview was summarized in a memo to the Board and included the relocation of six adult probation officers from their current Logan Street facility, the relocation of an additional six adult probation offices in the old Courthouse and the location of two additional court supported services (JCPC and TASK). The intent of the County is to them install handicapped restrooms and an Assembly Room in the vacated area outside of the main Courtroom on the second floor landing. The County Manager also reviewed repair work that had occurred on the elevator and renovation work that had occurred in the "basement" Courtroom. There was considerable discussion on the employment of an architect to initiate the process and the fact that the project would be informally bid and not handled internally by maintenance staff or prison labor.

The Board next discussed the purchase of Transfer Station scales. The County Manager noted that the scales are nineteen years old and in danger of being decertified by the State. Public Works Director Mike Gladden overviewed the need for the scales and the recommendation to use the current vendor, Self Scale. The price submitted by Self Scale was \$54,057.50 and included installation, a one year warranty and an accounting software package. Mr. Gladden spent considerable time reviewing the design of this unit and how the height of the scales off of the ground and the width would save County funds. The Finance Officer also spent considerable time reviewing the current process for collecting Transfer Station revenue and the inefficient staff impacts due to the manual system. The Board agreed that the financial software package was warranted.

The Finance Officer next presented the bank bids for the financing of the purchase. The County had received three responses including:

BB&T	3.06% with no fees
RBC Bank	4.15%
Carolina First	5%

Upon reviewing the information, a motion was then made by Commissioner Lavender and seconded by Commissioner Webb to approve the purchase of the scales with Self Scale and to also approve the *Resolution Approving Financing Terms* with BB&T. The motion passed with a unanimous vote.

TAX ADVERTISEMENT AND BIDS

Phyllis Ryan, the Tax Collector, was recognized for the next item of business. She explained that the North Carolina Machinery Act requires counties to advertise delinquent real properties and their owners. She suggested that this would be done on May 12, 2010. She also presented the bids for the advertisements that had been received for this purpose. She noted that in the past, the Board had divided the advertisements between THE McDOWELL NEWS and THE NEWS BULLETIN OF McDOWELL COUNTY, with THE NEWS BULLETIN typically having lower rates but also lower circulation. The previous decisions had been to authorize the advertisement for the Crooked Creek and Old Fort Townships in THE NEWS BULLETIN and the remaining townships in THE McDOWELL NEWS. The challenging issue in this year's bids was that the circulation for THE NEWS BULLETIN had increased substantially and was closer to the circulation of THE McDOWELL NEWS. The circulation provided was 5,662 for THE McDOWELL NEWS and 4,590 for THE NEWS BULLETIN.

The price submitted by THE McDOWELL NEWS was \$1.84 for the full listing and \$1.75 for a partial listing. The total price was \$2,629.22 or \$3,505.63 respectively. The price submitted by THE NEWS BULLETIN was \$1.25 per name regardless of the number advertised. The price would fall within a range of \$2,700 to \$3,000. Each Commissioner spoke on the issue. During the discussion, it was also noted that the Form 3526-R regarding circulation had not been submitted by THE McDOWELL NEWS. The County Manager noted that this had been a problem in past years as well. Commissioner Webb stated that he felt the absence of the proper form and the difference in price would cause him to support placing the full bid with THE NEWS BULLETIN. Commissioner Lavender asked several questions and expressed the same opinion. Commissioner Buff stated that he felt the circulation should be heavily weighted and that a precedent was being set.

After continued discussion and further questions, a motion was made by Commissioner Webb and seconded by Chairman Walker, that based on information received and that not received, to authorize the advertisement as presented and to advertise the full listing with THE NEWS BULLETIN. When put to a vote, results were a vote of 3-2 as follows:

Ayes: Commissioners Lavender, Walker and Webb

Nays: Commissioner Buff and McPeters

PUBLIC HEARING ECONOMIC DEVELOPMENT PROJECT

At 6:15 p.m., Chairman Walker declared the Board in a public hearing for an economic development project as outlined in G.S. 158-7.1. The Chairman asked the County Manager to review the project and proposal. The project is a small company that would manufacture gates, metal fencing and cabinets. The 13 jobs that would be created over a three year period would be a combination of metal workers, welders, and carpenters. The company would lease space in the old Coca Cola building located on East Court Street and could begin operations within two months. The incentive offered was for machinery and equipment and building improvements and was proposed in the amount of \$30,000 over a three year period.

Chairman Walker asked if anyone in the audience wished to speak on the project. No one asked to speak.

A motion was made by Commissioner Lavender and seconded by Commissioner McPeters to end the public hearing and return to regular session. The motion passed unanimously.

A motion was then made by Commissioner Webb and seconded by Commissioner Lavender to approve the incentive package as recommended by the Economic Development Director, with no incentives paid until the company performs, and to authorize the approval of the contracts on this project after review by the County Attorney. The motion passed unanimously.

PUBLIC HEARING ECONOMIC DEVELOPMENT PROJECT

Chairman Walker declared the Board in a public hearing for a separate economic development project as provided for in G.S. 158-7.1. Chairman Walker asked the County Manager to briefly overview the project. The project is a company with whom County staff has been working for over five months. The company would invest over \$3 million in building, machinery and equipment and employ 45 people over a three year period. The employment number could increase beyond these numbers to 70 individuals. The incentive package included a State One North Carolina application and a \$135,000 County match. The company is considering an existing building and the County Manager reported that the prospects for this company announcing were very favorable.

Chairman Walker asked if anyone in the audience would like to comment on the project and no one wished to do so.

A motion was made by Commissioner McPeters and seconded by Commissioner Lavender to close the public hearing and return to regular session. The motion passed unanimously.

A discussion did occur on the difficult sensitive nature of the County process and the fact that the State of North Carolina requires that they announce company locations involving their programs. There was also discussion and a reminder that no County funds were disbursed until the company performed and hired the workers. A motion was then made by Commissioner Lavender and seconded by Commissioner McPeters to approve the incentive package as presented and to authorize the execution of contracts if the project announces. The motion passed by a unanimous vote.

ANNUAL EMS REPORT

EMS Director William Kehler appeared before the Board to provide them with an annual report on EMS activities and to also request approval on a Reserve Program. The County Manager explained that the Board would continue to receive an annual report from departments each month.

Mr. Kehler reviewed a wide-range of trends affecting the EMS over multiple year periods. The trends included total patient transports, McDowell Rescue transports, total loaded miles per unit, calls assigned to each unit, response time, calls by fire district, minutes without coverage and standbys. Mr. Kehler explained the Old Fort Base vehicle serves the Crooked Creek and Old Fort areas, and most of the Pleasant Gardens area. Once the Nebo Base is in operation, it will serve the Nebo and Dysartsville areas. The information was well received and the report will be placed on the County's website along with each of the other reports.

EMS RESERVE PROGRAM

Next, Mr. Kehler presented a plan to create an EMS Reserve Program for the service. The document creating the Program was reviewed. The plan would enable paramedic students to assist and receive training with the EMS. The program is designed to expose paramedics to the service, improve the service retention and recruitment and to provide additional resources. The plan was reviewed by the Board item by item.

A motion was made by Commissioner Lavender and seconded by Commissioner Buff to authorize the McDowell County EMS Reserve Program. The motion passed unanimously and Mr. Kehler was congratulated on the excellent leadership he is providing to the program.

REQUEST TO ESTABLISH 4-H SCHOLARSHIP

Dan Smith and Chad Ray, from Cooperative Extension Service, appeared before the Board to request assistance in the establishment of a 4-H Scholarship Program. Mr. Ray was recognized to provide an overview. He noted that the recent sale of a piece of

property located on Three Point Road had occurred and that the property had originally been donated to McDowell County for the purpose of housing a 4-H Community Building. The donation occurred over fifty years ago and a reversion clause did exist in the deed stating that the property should remain used for this purpose or that it would revert back to the owner. The owner of heirs could not be located as the County disposed of the property last year. The property was sold for \$10,000 and Mr. Ray suggested that the proceeds be used for the purpose of creating a 4-H Scholarship.

Chairman Walker stated that he felt the original intent should be honored and asked the individual members their thoughts. There was a consensus that this request was appropriate. There were a number of questions regarding the use of the foundation. Commissioner Lavender and Commissioner Buff both suggested that specific guidelines be developed and brought back to the Board. There was also discussion that a local committee to review applicants be established and that the County Board have an appointment to the committee.

A motion was then made by Commissioner Lavender and seconded by Commissioner McPeters to approve the general concept of the funds being used for this purpose and that a more detailed proposal be brought back for the Board to review and consider, with assistance from County staff in drafting said proposal. The motion passed unanimously.

QUILTERS/MACA AGREEMENT

The County Manager presented the Memorandum of Understanding between the County of McDowell and the McDowell Arts and Crafts Association (MACA) for the Board's review. He noted the Board had previously authorized the use of a section of the McDowell House by the Quilters Guild, which operates under MACA, and he felt the execution of the document as well, but he wanted the Board to see the document and to be able to discuss a few of the details that had been included in the process.

By consensus, the Board indicated its approval for execution of the Memorandum of Understanding as presented.

STREAM STABILIZATION UPDATE

The County Manager stated that Chairman Walker had asked that a resolution be prepared expressing the Board's opinion on the reclassification of the headwaters of the Catawba River as a result of the recent meeting held in Old Fort. After discussing the matter with the Chairman and emailing a draft of the resolution to each of the Commissioners, Mr. Abernathy presented the resolution draft for the Board's official review and consideration.

In discussion, Commissioner Webb advised he had approached Mr. Westall about having a better way of educating citizens about what is happening regarding this issue.

He compared the way Soil and Water Conservation District conducts business with property owners, and suggested the DWQ needed to adopt their practice.

Commissioner Buff pointed out the fact that a lot of the County's streams are classified as clean and that the Board wants the best for our citizens. He said he felt the resolution was well written and properly stated the Board's position. Therefore, he made a motion to adopt the resolution as presented. Commissioner Webb seconded the motion and by a unanimous vote, the resolution was adopted as follows:

**RESOLUTION EXPRESSING A CAUTIOUS APPROACH TO
WATER PROTECTION RESTRICTIVE MEASURES
AND A CONTINUED EMPHASIS ON VOLUNTARY AND
COOPERATIVE WATER PROTECTION MEASURES**

WHEREAS, the State of North Carolina held a Public Hearing in McDowell County on January 22, 2010 to consider the reclassification of a section of the Catawba River known as the headwaters of the river; and

WHEREAS, the Board of Commissioners recognize the significance of the Catawba River as a resource and the special responsibility of those individuals residing and developing property in the basin; and

WHEREAS, the designation of this section of the Catawba River as a High Density Trout Stream does minimally impact property owners by establishing another five feet of vegetative buffer; and

WHEREAS, the bulk of the property affected by this designation change is located in the National Forest; and

WHEREAS, McDowell County has established significant setback restrictions on Lake James and has partnered with the Muddy Creek Watershed Protection Alliance and the Soil Conservation Program on numerous voluntary projects resulting in over twenty miles of protected stream bank.

NOW, THEREFORE BE IT RESOLVED that the McDowell County Board of Commissioners express support for a continued cautious approach on the part of the State of North Carolina Environmental Management Commission in establishing buffer requirements and continue to support programs that involve property owners in the management of their property.

ADOPTED this 8th day of February, 2010.

RIDGECREST LEASE AGREEMENT

The County Manager presented the Lease Agreement between LifeWay Christian Resources of the Southern Baptist Convention and McDowell County regarding the previous property access request from the McDowell Trails Association for the Board's approval. The document covers the upper parking area and the walking path to the Point Lookout Trail gate.

In discussion, Ashley Wooten, Assistance to the County Manager, said the document had been reviewed by Ridgecrest officials in Tennessee and they concur.

A motion was made by Commissioner Webb and seconded by Commissioner McPeters to receive the document for a 25-year lease and to accept upon the County Attorney's review. The motion passed by a unanimous vote.

BOARD APPOINTMENTS

Chairman Walker noted current board vacancies were for the Marion Area Fire Advisory Board of Directors (with one applicant) and the Board of Adjustment and Planning and Zoning Board for the Town of Montreat, with no applicants. Also, presented on first reading were two vacancies on Isothermal's Board of Directors.

Commissioner Lavender made a motion to suspend policy and to reappoint Commissioner Buff and County Manager Chuck Abernathy to the Isothermal Board of Directors for another term. Commissioner McPeters seconded the motion and by a unanimous vote, the motion carried.

TAX MATTERS

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

Releases Under \$100.00	Released amount of \$130.60
Releases Over \$100.00	Released amount of \$3,594.51
Motor Vehicle Releases Under \$100.00	Released amount of \$584.41
Motor Vehicle Releases/Over \$100.00	Released amount of \$219.26
Release Refunds	Refunded amount of \$1,595.90

Upon motion by Commissioner Lavender, a second by Commissioner Buff, and by a unanimous vote, the tax releases and refunds were approved as presented.

Concerning a schedule for the upcoming Board of Equalization & Review, the Tax Assessor had given three dates for the Board's consideration in starting this process.

Commissioner Buff suggested having everyone review his calendar, choose a date and email the Tax Assessor accordingly. By consensus, the Board agreed to follow Commissioner Buff's suggestion.

IBT SETTLEMENT

The County Manager gave a brief overview of the Inter-basin Transfer (IBT) settlement with Concord and Kannapolis, the reaction of the participants in the coalition, etc., noting that everyone had done a good job laying out the specifics. He noted the agreement says that during the first five years "the Cities shall transfer no more than three-million (3,000,000) gallons of water in any day from the Catawba River Basin" and at that point, Concord and Kannapolis "shall limit their transfer of water from the Catawba River to three million (3,000,000) gallons of water in any day until such time as they are transferring five million (5,000,000) gallons in any day from the Yadkin River Basin". He mentioned the drought situations, in which the maximum day withdrawal amount would be limited according to the drought stage (10.0 in abnormally dry to 6.0 in exceptional drought).

Mr. Abernathy pointed out most of the cities had approved the agreement and that he was not aware of any problems for any one not approving it. Also, that there is some gain to be realized in the reduction amounts. He advised it seemed to him that continuing a legal battle between ourselves when a legal counsel is saying otherwise may not be the most prudent in this case. Mr. Abernathy asked what the individual members of the Board thought about this issue.

Commissioner Buff said he was willing to say "no" and do nothing else. Commissioner Lavender noted the expense to put the infrastructure in and the requirement to do water restriction measures but said he was not sure the County has the funds to continue in the economic times. Chairman Walker concurred with Commissioner Buff, but said he would not go with pursuing the issue any further. Commissioner McPeters noted the \$20,000 the County had committed to this issue but acknowledged that at some point they would have to "draw the line". He said although the Board was not in agreement with the settlement, there was not a lot more they can do. Commissioner Webb said he liked the idea of a resolution but would stick to his previous comments of opposing the issue. He said he was very concerned about this situation and felt that it is just the beginning. He pointed out the fact that McDowell County is at the headwaters, and suggested that maybe the process needed to start in the metro area in order that they clean up. He questioned how the flow of water would be monitored, noting item *G. Reporting Requirements and Actual Metered Usage*, which concerned him.

In further discussion, Commissioner Webb said a resolution would clearly spell out the Board's position. The County Manager then suggested that perhaps the Board

should postpone the item to allow time to draft a resolution and to plan to have someone present to hear from the Board.

A motion was made by Commissioner Buff and seconded by Commissioner Webb to postpone this item until the next meeting for further information. The motion carried unanimously.

APPROVE PROPOSED ADDITION OF McDOWELL AGRICULTURE ACCESS ROAD (SR 1828) EXTENSION

Chairman Walker presented a request from the Department of Transportation for approval to add the McDowell Agriculture Access Road (SR 1828) to the State's system.

Commissioner Lavender made a motion, seconded by Commissioner Webb, to approve the request to add the McDowell Agriculture Access Road (SR 1828) to the State's system as presented. The motion passed by a unanimous vote.

CITIZEN COMMENT

Chairman Walker checked the sign-up sheet for any one wishing to speak during Citizen Comment. With no one registered, he moved to the next item of business.

REPORTS AND COMMUNICATIONS

The County Manager pointed out the John Locke Foundation is a municipal "watchdog", grading cities and counties on their level of transparencies. He advised the County had previously received a grade of "C" and he had inquired as to how we could go to a grade "B". Mr. Abernathy advised that as a result of this process, the County has been rated the 5th most transparent in the State. He pointed out we are doing things that are not required as well as most things that are required, noting for instance that minutes are more important than scanning contracts. Mr. Abernathy stated the FLS Energy Contracts had been executed for the solar energy project. The North Carolina Association of County Commissioners (NCACC) has an awards program and McDowell County had been recognized in 2009 for its hypothermia program with EMS. Two other programs (the Wellness Program and the Victory Garden with DSS) will be entered for the awards 2010 program, as well as "Your County" with Dan Smith.

Commissioner Webb suggested a press release for placement on the Cable Channel, noting that we need limited government since this is our trademark.

ADJOURNMENT

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

DAVID N. WALKER, CHAIRMAN

CARRIE PADGETT
CLERK TO THE BOARD