

**STATE OF NORTH CAROLINA  
COUNTY OF MCDOWELL COUNTY  
BOARD OF COMMISSIONERS  
REGULAR SESSION  
AUGUST 12, 2013**

**ASSEMBLY**

The McDowell County Board of Commissioners met in regular session on Monday, August 12, 2013, at 5:00 p.m. in the Commission Board Room of the County Administration Building, the usual meeting place.

**MEMBERS PRESENT**

David N. Walker, Chairman; Barry E. McPeters, Vice Chairman; Michael K. Lavender; Van Randy Hollifield; and Joseph L. Kaylor

**OTHERS PRESENT**

Charles R. Abernathy, County Manager; Carrie Padgett, Clerk to the Board; and Theresa Stickland, Public Information Technician (Filming)

**CALL TO ORDER**

Chairman 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**

Minutes of the July 8, 2013 regular session were presented for approval.

Commissioner McPeters made a motion to approve the minutes as recorded. Commissioner Kaylor seconded the motion and by unanimous approval, the motion carried.

**APPROVAL OF AGENDA**

Commissioner Lavender requested to add a closed session for a brief update and discussion of an economic development project.

A brief discussion followed.

Commissioner Lavender made a motion to add the closed session. Commissioner McPeters seconded the motion. By a vote of 4-1, the motion carried with Chairman Walker casting the opposing vote.

## **BUDGET UPDATE – FINANCE MATTERS**

The County Manager advised since it takes several months to transition from one fiscal year to the next, he did not have a monthly finance and expenditure report at this time. He did have the sales tax and property tax reports. Ten months of sales tax had been received from the previous fiscal year and receipts are \$347,522 below the budget. Mr. Abernathy said with only two more months left, the revenue will obviously be short.

Concerning the Tax Collector's report, Mr. Abernathy pointed out collections totaled \$17,951,437, representing a 96.82% collection rate which is .21% higher than the previous fiscal year. The percentage for real property and utilities was 98.38%. The budget allotment for this revenue in the previous year is \$17,865,933. The revenue finished \$85,504 in the black. Mr. Abernathy noted that an appropriation of \$467,621 of fund balance occurred in the previous fiscal year.

In other finance related matters, Mr. Abernathy requested the Board's approval to waive building permit fees on the Universal Skill Center. This was communicated to contractors prior to the bids.

Commissioner Kaylor made a motion, seconded by Commissioner Hollifield, to authorize the waiving of permit fees for the Universal Skill Center as requested. By unanimous approval, the motion carried.

Next, the Finance Officer presented several project budget ordinances for the Board's approval. They included expenditures/revenue of \$75,000 for NC Housing Urgent Repair, \$154,823 for an ARC Universal Grant, and \$326,161 for a Kate B. Reynolds-EMS. Also, Mrs. Morgan presented a resolution to close-out the project fund for the Crisis Housing Capital Project. She advised the County received a \$46,435 Crisis Housing Grant award to finance the project which was completed 7 or 8 years ago, but they never closed the grant out. Approval of the resolution would enable her to get this grant off the County books.

A brief discussion followed.

Commissioner Lavender made a motion to approve the three (3) project budget ordinances as presented and the close-out resolution for the Crisis Housing Grant project. Commissioner Hollifield seconded the motion and it received unanimous approval.

Mr. Abernathy presented an amendment for the Sheriff's Department to appropriate \$18,247.00 from the Inmate Housing Reserve fund to purchase vehicles for the Sheriff's Department. Also, he introduced a *RESOLUTION AUTHORIZING SALE OF COUNTY OWNED PROPERTY* (trade-in of asset \$1656, with the new asset to be used in the operations of the McDowell County Sheriff's Office).

A motion was made by Commissioner Lavender and seconded by Commissioner McPeters to approve GF #1 and the Resolution as presented. By unanimous approval, the motion carried.

Mr. Abernathy next presented bids received in regard to the financing of one piece of equipment for use in the Emergency Medical Services Department. Although RFP's were sent out to eight financing institutions, only two bid responses were received. BB&T responded with a rate of 2.09% for a period four (8) years-semi annual payments in arrears beginning January 2014. Mountain First submitted a bid rate of 2.20%. Others to which RFP's were submitted were BOA, PNC, Fifth Third, Wells Fargo, Sun Trust Bank, and First Citizens Bank, all of which gave no response.

A question was raised as to why there were so few responses. Mrs. Morgan stated it is just the market and that most banks will only bid on the larger projects.

Commissioner Hollifield made a motion, seconded by Commissioner Kaylor, to approve the low bid of 2.09% from BB&T to finance the EMS equipment as presented. By unanimous approval, the motion carried.

There was one adjustment with the Nebo Water System for approval (John and Vonda Davis, account #294323 in the amount of \$43.49 for a leak adjustment).

Commissioner McPeters made a motion, seconded by Commissioner Lavender, to approve the water adjustment for John and Vonda Davis as requested. By unanimous approval, the motion carried.

### **TAX MATTERS – ORDER OF COLLECTION, SETTLEMENT**

Tax Collector Phyllis Ryan came before the Board to present the Order of Collection for the new fiscal year and the Settlement for the uncollected taxes, including the Insolvents List, for Fiscal Year 2012-2013. She presented a bound copy of unpaid property taxes to the Board.

Mrs. Ryan summarized the 2012-2013 taxes, noting the collection rate, and stated she wants to update as much as possible for the collection of taxes and will be working with Bi-Tech to put the new system into place. She advised she would like to do email billing to those who want it.

Commissioner Lavender made a motion to approve the Tax Settlement for Fiscal Year 2012-2013, including the Insolvents List, and the Order of Collection as presented. Commissioner McPeters seconded the motion and it passed by unanimous approval.

The usual monthly listing of tax releases and refunds were presented for approval. In summary, they were:

Releases Under \$100.00

Released amount of \$623.15

Releases Over \$100.00	Released amount of \$4,279.72
Motor Vehicle/Releases Under \$100.00	Released amount of \$1,444.49
Motor Vehicle/Releases Over \$100.00	Released amount of \$648.94
Release Refunds	Refunded amount of \$1,565.33

Commissioner McPeters made a motion, seconded by Commissioner Hollifield, to approve the tax releases and refunds as presented. By unanimous approval, the motion carried.

### **TRAIL UPDATE**

The County Manager advised he had asked the City Manager for an update on the Second Phase of the Catawba River Greenway. His response was that all of the funding is in place for Phase 2 and they have signed contracts from PARTF and RTP. Both the City and County have committed \$45,000 each to the local match and the City has received a \$35,000 KBR grant. The City sought proposals for design and engineering services for Phase 2. After review, McGill Associates was awarded the contract for design and engineering. They negotiated a price that fit within the project budget.

Mr. Abernathy advised the Greenway will remain County owned which does raise the question on maintenance. He stated the County needs to have an agreement on what will be handled by whom, and noted the work will probably to done in the next year and a little into the following year. Bill Hendley and Frank Dean are working on the next phase with property owners and the County does have a part-time trail employee hired.

### **DSS UPDATE**

The County Manager noted the action taken at the last meeting for the transfer of duties to his department. He advised the public hearing that has to be held with a 30 day notice had been published. The public hearing will be in September. He noted the resolution copied from Watauga County and information from the School of Government on options, etc. He asked if there were any questions on the process. None were asked.

In conclusion, Mr. Abernathy advised the DSS Director had resigned. He said he would communicate all along the way concerning this process.

### **UNIVERSAL UPDATE**

The County Manager made reference to the project ordinance which was not in Board's packet but will be presented at the next meeting. The contracts had been reviewed by the County Attorney and had been signed. A grant extension had been provided by Golden Leaf. England Builders had begun work. Mr. Abernathy said he and

the contractor are working on a completion date (gearing toward a January or February date). Related amendments will be presented next month.

A complete update will be given at the September meeting.

### **WATER INTAKE/WATERSHED UPDATE**

In an update, the County Manager advised the property for the future water intake site has been under option for three years, but Crescent does not want to extend the lease any further. Mr. Abernathy pointed out that much of the process during the first two years involved the relicensing process. The permitting process is two to three years out. He addressed the need to purchase the property in order to continue the process, noting the amount remaining to be paid is \$995,114. Also, he noted the need to proceed with an appraisal, saying he was told that would be no issue on the value.

Discussion followed on the lease payments that will go toward the purchase price.

Commissioner Lavender made a motion, seconded by Commissioner Hollifield, to authorize staff to hold the public hearing and to engage the appraiser and LGC. By unanimous approval, the motion carried.

Mr. Abernathy then addressed the workshop on the watershed regulations, noting that Ron Harmon would administer the ordinance. He noted both Burke County's and the City's position concerning the intake.

A general discussion followed. Mr. Abernathy stated he will have the Water Irrigation Ordinance on the next agenda for signatures but for now, no action was needed.

### **NOISE ORDINANCE DISCUSSION**

Planning Administrator Ron Harmon advised the Planning Board met with County Attorney Fred Coats and representatives from the Sheriff's Department to address the issues that were brought up at the public hearing for the draft Noise Ordinance. The biggest issue was the 300 foot distance that a noise could be audibly heard or felt. After talking to Mr. Coats and officers with the Sheriff's Department, they decided to strike the reference to a distance because that would bring about the issue of measurement and it would be hard to regulate. Other issues that were reviewed with Mr. Coats were in the discharging of firearms as it relates to hunting. The Ordinance previously read "legal activities" and now it reads "legal *hunting* activities with a discharge of firearms". The third item addressed was the addition of a farming exemption which exempts anything related to farming such as noise made by tractors, animals, etc.

Mr. Harmon said the Planning Board wanted to convey to the Board of Commissioners that after twelve months if there seems to be issues with the Ordinance, they would be happy to take it back, study it, and talk with those with the issue to see if they might do something further to tighten it and make it better.

Commissioner Lavender said he appreciated the County Attorney and the Planning Board making some changes to the Ordinance that are positive and responding to things that were of concern to him, such as the farm animals and hunting activities. He said he understood why the reference to measurement was stricken; however, he pointed out the possible difficulty in determining that a noise is “excessively loud” and in defending it should a case go to court.

A general discussion followed.

In general comments, Commissioner Hollifield pointed out the Ordinance is a “work in process” and is the Board’s first attempt in making improvements to it. He suggested, if the Ordinance is adopted, tracking how it is being used by the Sheriff’s Department, getting periodic reports on whether the Ordinance is working, and then review the document next year to see if there is something that needs to be added, deleted, or changed.

Further discussion followed.

Commissioner Hollifield then made a motion to adopt the Noise Ordinance as submitted. Commissioner Kaylor seconded the motion. In discussion Commissioner Lavender suggested keeping close tabs on unfair impacts, etc. By unanimous approval, the motion carried.

### **WATER SYSTEM POLICY AND ORDINANCE**

The County Manager noted the presentation made by staff last month concerning a policy governing the Nebo Water System that governs all impacts of its operation. He advised two or three changes had been made based on the discussion from last month’s meeting, and again the policy was being presented. He asked if there were any additional questions. None were asked. Mr. Abernathy then made reference to the related Ordinance, and some fee schedule items as well to discuss.

Commissioner McPeters made a motion to approve the Water System Policy. Commissioner Hollifield seconded the motion and by unanimous approval, the motion carried.

Mr. Abernathy presented the current fee schedule for various items including the monthly bill, the tap fees, deposits, late fees and cutoff fees. He advised the system is not operating in the black, the fees are quite low, and he would think the average monthly bill is probably in the mid-\$20.00 range which is very affordable. The tap fees do not cover the cost for our labor nor do they cover the cost for the materials. The philosophy here is to build the system and to encourage people to tie on by making it affordable, and the experiment remains ongoing. He said it is important that the Board is made clear it is not balancing out and the State pretty well says that an enterprise fund should operate from its own revenue.

With reference to the draft fee schedule, Mr. Abernathy said he would like to initiate a bulk-rate fee which the County does not currently have. He stated the Facility Maintenance Director had researched this item and is recommending a \$25.00 base fee plus \$4.50 per 1,000 gallons be charged to contractors and entities that might want to fill swimming pools, etc.

Mr. DePoyster advised he continues to get calls on a yearly basis from D.O.T., railroad, and pool contractors who want to purchase water and he does not have a metering device available now and there is no set rate. He advised the \$25.00 rate is a minimum base fee like the residential customer fee, and so is the \$4.50 per 1,000 gallons rate. He pointed out he had done a survey with seven (7) surrounding water districts and this rate puts the County right in the average with some lower and some higher.

A brief discussion followed.

Mr. Abernathy advised he would suggest an increase on tap fees with \$100.00 on  $\frac{3}{4}$  lines, \$100.00 on 1-inch, and leaving the 1  $\frac{1}{2}$  and 2-inch the same. He pointed out that even at \$350.00 for a  $\frac{3}{4}$  inch-tap, the cost would not be recovered.

A brief is discussion followed.

Commissioner Lavender made a motion to authorize the changes to the Nebo Water System fee schedule with the addition of the bulk rate which includes a \$25.00 base fee plus \$4.50 per 1,000 gallons, and that those become effective upon adoption. Commissioner McPeters seconded the motion and it passed by unanimous approval.

### **FIRE COMMISSION WORKMEN'S COMP ISSUE**

Fire Commission Chairman Brad Ledbetter came before the Board to discuss the problem they are encountering with the worker's comp issue. He said he thought the problem had been explained back in March when they had met with the Board of Commissioners and apparently this was not the case, but hopefully the letter he sent to the Board had explained it a bit more. Mr. Ledbetter said their request was for their worker's compensation to be fully funded, and he would be glad to answer any questions from the Board.

Chairman Walker noted for the record that several fire departments were represented at tonight's meeting and the Board appreciates what everyone does every day to keep the County's residents safe.

Mr. Ledbetter proceeded to further explain how the numbers change or vary each year with the addition of full-time and part-time people in the various departments. He said they try each year to be as precise as possible with their budget figures although they really do not have concrete figures until June each year.

Chairman Walker asked what figure is needed in addition to what is budgeted. The Fire Commission Treasurer said as of today they have a \$30,000 deficit because of the cumulative problem they have experienced since 2007.

General discussion followed. Chairman Walker suggested dealing with the needed amount now and in the near future work out a solution to meet their needs before the last minute for next year.

Commissioner Lavender made a motion to authorize from fund balance the expenditure of \$30,000 (\$18,780 now and the remaining balance in the second half of the fiscal year) and, in the meantime as soon as is appropriate, the County staff get with the Fire Commission to begin planning to see if there are changes, whether it be doing some of what Commissioner McPeters had mentioned as planning for injuries in EMS or an issue of equalizing fire and rescue taxes or whatever to do the necessary planning, to take care of this year's needs. Commissioner Hollifield seconded the motion and discussion followed.

Further discussion followed.

Commissioner Lavender then amended the motion to provide the \$18,780 up front and ask the Fire and Rescue Commission to start the process by the first of June when they know their rosters and get the figures to the Board of Commissioners by the 15<sup>th</sup> of June in order for the Commissioners to provide the necessary amount to make up the difference. Further, to start a dialogue to see if there is some other way to avoid having this process to deal with every year. Commissioner Hollifield seconded the motion and further discussion followed. By unanimous approval, the motion carried.

Chairman Walker directed staff to get with the Fire Commission and work out the problems.

### **RECREATION GRANT**

The County Manager advised this item had previously been mentioned informally and the Board had previous discussed the need to make improvements to the gym at the Recreation Department. More specifically, substantial interest had been expressed about replacing the gym floor, and this was overviewed in the planning workshop. Mr. Abernathy said he and the Recreation Director had met with a representative of Kate B. Reynolds concerning a grant for replacing the gym floor and that plans have been laid out for expanding recreation. He noted some of the activities that are being considered such as a new volleyball league, opening several nights a week for people to use the gym, as well as expanding the church league basketball programs.

A general discussion followed.



## **DUKE ENERGY RIGHT OF WAY DOCUMENT**

Due to a question raised by the City of Marion regarding this item, it was held over from the June meeting to find out what the issues were. The County Manager advised the County Attorney had reviewed the right of way request as well as the issues raised by the City of Marion and he saw no reason not to approve.

Commissioner Lavender made a motion, seconded by Commissioner McPeters, to approve the right of way request from Duke Energy. By unanimous approval, the motion carried.

## **ROAD ADDITION TO STATE SYSTEM**

The County Manager advised notification was received from the North Carolina Department of Transportation concerning the proposed addition of North Drive, off SR 1577 in McDowell County, to the state system. The property owners are requesting the proposed addition. If the Board supports this request, D.O.T. asked that a resolution of approval be submitted to their office.

Commissioner Kaylor made a motion, seconded by Commissioner Lavender, to approve the request to add North Drive to the state system. By unanimous approval, the motion carried.

## **HOUSING COALITION POLICY**

The County Manager presented the Housing Assistance Policy that is required in order to draw down the \$75,000 housing grant. The policy had been reviewed by the Finance Officer, the DSS Director, the Housing Coalition Coordinator, as well as Mr. Abernathy himself. The document would transition in the future to the non-profit housing coalition when it is created.

Commissioner Lavender made a motion to approve the Housing Assistance Policy as presented. Commissioner McPeters seconded the motion and by a unanimous vote of those present (Commissioner Kaylor was out of the meeting at the time), the motion carried.

## **BOARD APPOINTMENTS**

A vacancy on the Library Board of Trustees was considered on second reading. There were two applicants (Christine Simolke and Julie McKinney).

By written ballot, the Board voted and results were a 3-2 vote as follows:

For Christine Simolke: Commissioners Hollifield, Kaylor and Lavender

For Julie McKinney: Commissioners McPeters and Walker

The Commissioners agreed both applicants were very good which made it difficult to choose only one. This being the case, Chairman Walker directed the Clerk to contact Elizabeth House, Library Director, to ask if another vacancy might be imminent so that both ladies might be used.

### **REPORTS AND COMMUNICATIONS**

There were no reports or communications given.

### **CITIZEN COMMENT**

Michelle Harris came before the Board to speak on the Box Creek Wilderness. Again, she said she felt the Board should get the County Attorney involved to adopt an eminent domain ordinance. She made reference to Rutherford Electric and how the law is being used.

Mrs. Harris advised the trial has moved up to September.

### **CLOSED SESSION – ECONOMIC DEVELOPMENT**

At the request of Commissioner Lavender for a closed session, Chairman Walker called for a motion to go into closed session at this time in accordance with G.S. 143-318.11(4). Commissioner Hollifield made a motion to go into closed session. The motion was seconded by Commissioner Kaylor and by unanimous approval, the motion carried.

Mr. Abernathy gave an update on the status of an economic development project previously discussed.

Commissioner Kaylor made a motion to go out of closed session. Commissioner Lavender seconded the motion and by unanimous approval, the motion carried.

### **ADJOURNMENT**

There being no further business to transact, upon motion by Commissioner Lavender, a second by Commissioner Kaylor, and unanimous approval, the meeting was adjourned.

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DAVID N. WALKER, CHAIRMAN

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CARRIE PADGETT  
CLERK TO THE BOARD