

**STATE OF NORTH CAROLINA  
COUNTY OF MCDOWELL COUNTY  
BOARD OF COMMISSIONERS  
REGULAR SESSION – SEPTEMBER 14, 2020**

**Assembly**

The McDowell County Board of Commissioners met in Regular Session on Monday, September 14, 2020, at 5:00 p.m., at the Universal Conference Room, 634 College Drive, Marion, North Carolina.

**Members Present**

David N. Walker, Chair; Lynn Greene; Barry McPeters; Brenda Vaughn

**Members Absent**

Tony Brown, Vice-Chair

**Others Present**

Ashley Wooten, County Manager; Cheryl Mitchell, Clerk to the Board

**Call to Order**

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

Chairman Walker called for a moment of silence in memory and honor of law enforcement.

**Approval of Minutes**

Commissioner Vaughn made a motion, second by Commissioner McPeters, to approve the August 10, 2020 Regular Session; August 17, 2020 Regular Session; August 24, 2020 Special Session; August 27, 2020 Recessed Session minutes as presented. By a vote of 4-0, the motion carried.

**Approval of Agenda**

Chairman Walker called for any additions or deletions to the agenda.

Commissioner McPeters made a motion to approve the agenda as presented, second by Commissioner Greene. By a vote of 4-0, the motion carried.

**COVID-19 Update**

Mr. William Kehler, Emergency Services Director, gave an update on the COVID-19 response:

- Day 183 of Emergency Operation Center (EOC) activation; 11,970 tested; 830 positive; 10,908 negative; 49 in quarantine; 27 deaths
- concerned with a drop in numbers of individuals being tested
- monitoring trends and pleased with the low number of positives
- Deer Park facility must go 28 days without a positive to declare outbreak is over; today is day 17; 23 residents have recovered from the virus; 14 deaths; 31 staff members tested positive
- Cedar Brook has 2 staff members that tested positive; no residents have tested positive
- continuing weekly coordination calls with all facilities

- Emergency Services is supporting the Board of Election Dept. by conducting a safety measures training with the poll workers
- Hurricane Sally is being monitored; recent storm left over 4” of rain in the last 48 hours in parts of the county
- NC 80 Locust Cove and Clear Creek area received over 4” in 2 hours; 7 residents were stranded; power and phone have been restored; 1 bridge has been restored

### **Animal Services Update**

Terry DePoyster, Public Services Director, gave an update on the renovations at the Animal Shelter. He also was happy to report the Shelter was inspected by the State of NC Agricultural Inspector and only 2 non-compliant recommendations were received out of 162 items.

Brittany Wright, Animal Services Manager, presented information on the Community Cat Trap-Neuter-Return Program the shelter would like to implement. The goal would be to spay/neuter, ear tip, and rabies vaccinate community cats for residents of the county to help reduce the feral cat population. There would be no fee charged for the cats to be spayed/neutered free of charge at the ASPCA Spay/Neuter Clinic on Thursdays. Caregivers would trap the cats on their own, make an appointment to bring to the shelter for spay/neuter, and pick up their cat a week later. This would allow for the cat to recover and heal from surgery before returning outside. The shelter would be able to provide the service for 1-2 cats a week.

Commissioner Greene made a motion to endorse the program, second by Commissioner Vaughn. By a vote of 4-0 the motion passed.

Vice Chairman Brown joined the meeting via phone at 5:24pm.

### **Planning Ordinance Update**

#### **Updating Chapter 160D**

Mr. Ronald Harmon, Planning Board Director, presented a proposal from Isothermal Planning and Development Commission (IPDC) to review the land ordinances and note what needs to be changed due to Statute 160-D, and update the Comprehensive Land Use Plan which had not been updated since 1993. A copy of the proposal is with the agenda materials.

Mr. Wooten noted the General Assembly had passed a law that placed all development-related statutes for cities and counties in NCGS 160D. All county land development ordinances would need to be reviewed to ensure they comply with the new statute. Any updates would need to be completed by July 1, 2021. A 50% ARC Technical Assistance Credit will be applied to the total cost (estimated to be between \$1,100 and \$2,200), thus reducing the expense to McDowell County by 50%. After the 50% ARC Credit, total project costs to McDowell County are estimated to be between \$550 and \$1,100.

Mr. Harmon also presented a proposal from IPDC to provide technical assistance for the update of the Comprehensive Plan. The estimated time is 80-120 hours at a rate of \$55 an hour. A 50% ARC Technical Assistance Credit would be applied to the total cost, thus reducing the expense to the County by 50%. A copy of the proposal is with the agenda materials.

Commissioner Vaughn made a motion, second by Commissioner Greene to accept the IPDC proposals. By a vote of 5-0 the motion passed.

### **Lake James Unified Protection Ordinance**

Mr. Harmon noted there were three Lake James Protection Ordinances established in 1996, 2003, and 2016. He presented a draft unified ordinance that would replace the three prior ordinances. A copy of the draft ordinance is with the agenda materials.

Commissioner McPeters made a motion to move forward with unifying the ordinances, second by Commissioner Vaughn. Mr. Wooten noted the Board must hold a public hearing first and then vote at their next meeting. Commissioner McPeters withdrew his motion, second by Commissioner Vaughn.

Mr. Wooten noted the Board of Adjustment had sent a letter to the Board of Commissioners requesting the Planning Board to look into the criteria for approval for future tram requests on Lake James. Chairman Walker suggested holding the public hearing at next month's meeting, vote on the unified ordinance, and once voted upon then discuss the tram issue.

Consensus of the Board was to move forward with the public hearing at next month's meeting on the Lake James Unified Protection Ordinance.

### **Draft Firearm Safety Ordinance**

Mr. Wooten noted several weeks ago the Board of Commissioners asked the Planning Board to investigate the issue of persons discharging firearms in close proximity to other residences. The Planning Board presented a draft Firearm Safety Ordinance, a copy is with the agenda materials. The Planning Board suggested no discharge of a firearm within 150 feet of a residence not owned, leased, or otherwise controlled by the person discharging the firearm. Also, it would be unlawful to discharge a firearm in any manner which resulted in the projectile leaving the property in which it was fired unless the landowner or lessee of the property to be traversed by the projectile has granted permission. A violation of the ordinance carried a penalty of up to a Class 3 Misdemeanor.

Commissioner Greene noted he would like to see the petition that he had heard had been signed by over 300 people. Vice Chairman Brown will follow up and ask for the petition, and also would like to see the ordinance have a restriction of 300 feet from the residence.

Commissioner Vaughn added she does not want to create a burden for homeowners shooting on their own property. She added once the county gun range is opened, a lot of people will be able to go there and shoot. But there are other homeowners who choose to shoot safely on their own property.

Commissioner McPeters also wanted to see the petition and would like to table this item and get more information. He added he knew Mitchell, Yancey, and Avery Co did not have an ordinance like this. He was afraid adopting this could cause issues for the county later.

Chairman Walker asked Mr. Harmon what the Planning Board considered when coming up with this ordinance. Mr. Harmon responded the Planning Board initially started at 300 feet, and the biggest objection was you couldn't site your gun for hunting at that distance. He added the proposed recommendation came from Wilkes County.

Commissioner Vaughn asked if this would be complaint driven, and Mr. Harmon responded yes the Sheriff's Dept would have to go visit the homeowner.

Chairman Walker asked Attorney Coats if he had read the proposed ordinance. He noted he had looked at the firearm regulating statute, and this was not a complicated ordinance. He added the ordinance carried more of a political problem.

Commissioner Greene asked Mr. Harmon if anyone from the community had approached the Planning Board about this issue. Mr. Harmon said not to his knowledge. Commissioner Greene added no one from the community had approached the Board with complaints about shooting guns, and he had not seen the petition. He did not want to start restrictions when no one was saying anything.

Chairman Walker's opinion was he would prefer 100 yards from a residence, but would go to 75 yards. His opinion was to table the item to give time for the petition to be turned in, and time for the Commissioners to do more research.

Commissioner McPeters requested the Clerk review and verify names on the petition as county residents once the petition was submitted. He noted he would be glad to help the Clerk with the process.

By consensus the Board tabled the item until the next Regular Session meeting.

Vice Chairman Brown left the meeting at 5:50pm.

### **Legislative Goals**

Chairman Walker had three items to submit to the NC Association of County Commissioner's legislative goals process.

1. Credit Card Fees – Currently in the DMV Tag Office the county has spent \$100,000 in credit card fees annually. The counties should be given the ability to shop around for a better deal on credit card providers. There have been complaints the one provider's fees are too high for the use of the machine. Currently, counties are not provided with other options.
2. Broadband – Continue to advocate for broadband service county wide. More important now with children's education requiring online learning.
3. Allow the school system flexibility to set their own calendar- local school systems know their community better to be able to set a calendar that works for each county.

Chairman Walker reminded the Board the deadline was September 30, and to let the Clerk know if there were any other items to submit.

### **EMS Capital Project Update**

Mr. Kehler gave an update on the EMS building projects. He advised Station 4 is on schedule to be complete after the first of the year, and the headquarters is scheduled to be complete in early 2022.

### **Public Shooting Range**

Mr. Wooten reported the notice to proceed for the public shooting range was issued for September 8<sup>th</sup>. The contractor will be onsite within days to get the project moving. The total construction schedule is around 11 months.

A groundbreaking ceremony will be planned as soon as possible.

### **Courthouse Project Update**

The final construction of the Courthouse is scheduled to be complete by December 15, 2020.

One of the final portions of the project will be the resurfacing of the parking deck levels. Staff is preparing a count of the parking spaces that will exist at the end of the project. The various agencies inside the Courthouse will provide a count of the parking spaces needed by their departments, although probably not all parking needs can be met.

Chairman Walker congratulated the Board on their forward thinking of renovating the Courthouse versus building a new one. The approximate cost to construct a new Courthouse would have been \$21million without furnishings, and the county has spent \$8.5million on the renovation and construction of a new courtroom. All space in the Courthouse is being utilized. Chairman Walker also noted the Board had voted to raise the county property taxes by 3.75 cents to go toward the cost of the renovation, with the goal of June, 2021 to lower the property tax rate.

Chairman Walker noted it was the Board's desire once the Emergency Services Headquarters was finished to have a parking garage in place where the current Headquarters is located. The county would like to partner with the city to build a parking garage to help alleviate parking issues during the downtown festivals.

### **West Court Street Office Lease**

The Public Defender's office has been temporarily leasing office space at the West Court Street Office, and renovation is now complete so they are now able to move to the lower space of the Courthouse. Mr. Wooten requested to continue the lease of the West Court Street Office so half of probation and parole staff could be relocated to the space. Their current location doesn't have enough space for all of their staff, and county staff had met with officials from their office on several occasions to discuss their space limitations. The monthly lease rate would be \$940.

Chairman Walker requested Mr. Wooten to notify the Board if he identified any space that might become available to move other county departments to better serve the public.

Commissioner Greene made a motion to extend the lease, second by Commissioner McPeters. By a vote of 4-0 the motion passed.

### **Administrative Items**

Mr. Wooten presented a Nebo Water System fee waiver request from the Nebo Post Office for the amount of \$54.17 due to a water leak.

Commissioner McPeters made a motion to approve the water leak, second by Commissioner Vaughn. By a vote of 4-0 the motion passed.

Mr. Wooten presented EMS write-offs in the amount of \$ 30,606.54 for consideration.

Commissioner McPeters made a motion to approve the EMS write-offs, second by Commissioner Greene. By a vote of 4-0 the motion passed.

### **Budget Amendments**

Mr. Wooten presented the following amendments:

GF 1 – Appropriates anticipated sales tax reimbursement

GF 2 – Appropriates block grant revenue at the Sheriff's Office

GF 3 – Appropriates designated funds from prior year revenue for vehicle and equipment purchase

GF 4 – Appropriates designate prior year revenue in various Social Services line items

GF 5 – Appropriates designed prior year revenue for the Senior Center

GF 6 – Appropriates donations at the Animal Shelter

GF 7 – Appropriates economic development grant funds for the Baxter project

GF 8 – Transfers between line items in Public Services

SP1 – Amends the School Project Fund for various school renovation projects

Commissioner Greene made a motion to approve all amendments as presented, second by Commissioner McPeters. By a vote of 4-0 the motion passed.

### **Tax Matters**

Mr. Wooten presented a request from Ms. Linda Onufrey, Tax Collector, to charge off uncollected taxes for the 2009 tax year in the amount of \$127,990.05 as of September 1, 2020. The amount was not included in the accounts receivable annual audit report because by statute the funds were not collectible.

Releases over \$100	\$ 929.70
Releases under \$100	\$ 225.12
Discoveries	\$ 1,640.16
MV tax refunds	\$ 713.71
Refunds	\$ 240.98
Write-offs	\$ 641.26

Commissioner Greene made a motion to approve all tax matters, second by Commissioner Vaughn. By a vote of 4-0 the motion passed.

### **Public Comment – NCGS 153A-52.1**

Chairman Walker opened the meeting for public comment at 6:12pm.

There were no comments.

Public comment ended at 6:12pm.

### **Commissioners/Staff Reports and Communications**

Mr. Wooten noted on Saturday, October 3<sup>rd</sup>, the Lake James Environmental Association is partnering with Keep McDowell Beautiful to participate in the Catawba River Sweep, a basin-wide cleanup effort at dozens of sites around Lake James. The event will be from 8:00-Noon, and will begin at Hidden Cove Boat Access.

### **Adjournment**

There being no further business to transact at this time, upon motion by Commissioner McPeters

and a second by Commissioner Greene, the meeting was adjourned at 6:13pm.

Attest:

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Cheryl L. Mitchell  
Clerk to the Board

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David Walker  
Chairman