

**STATE OF NORTH CAROLINA  
COUNTY OF MCDOWELL COUNTY  
BOARD OF COMMISSIONERS  
REGULAR SESSION – AUGUST 12, 2019**

**Assembly**

The McDowell County Board of Commissioners met in Regular Session on Monday, August 12, 2019, at 5:00 p.m., in the Commissioner's Board Room of the County Administration Building, 60 East Court Street, Marion, North Carolina.

**Members Present**

David N. Walker, Chairman; Tony Brown, Vice-Chairman; Barry McPeters; Lynn Greene

**Members Absent**

Brenda Vaughn

**Others Present**

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

**Call to Order**

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

**Approval of Minutes**

Vice Chair Brown made a motion to approve the July 8, 2019 Regular Session minutes, and July 15, 2019 DSS Regular Session minutes, second by Commissioner McPeters. By unanimous vote, the motion carried.

**Approval of Agenda**

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

Mr. Wooten added two items under new business; a request from Friends of Lake James State Park, and a Resolution regarding a FEMA grant.

Commissioner Greene made a motion to approve the agenda with the additions, second by Commissioner McPeters. By unanimous vote, the motion carried.

**NCACC Youth Delegate**

Mr. Chad Ray, 4H Youth Development Extension Agent, introduced Haylee Laws, a senior at McDowell High School attending this year's NC Association of County Commissioners Annual Conference as the McDowell 4-H Youth Delegate. She is active in the 4-H Ride-It Club; Shooting Sports Club; and Livestock Judging Team. She is also Vice President of FFA at McDowell High School.

Chairman Walker and the Board congratulated Ms. Laws on her accomplishments and posed for pictures with her.

### **Facilities Updates**

Mr. Terry DePoyster, Public Services Director, gave an update on the ongoing county projects:

Third Courtroom and Admin Parking Deck– the new courtroom is in use; renovations of Superior Courtroom has begun; Clerk of Court has been relocated to swing space to begin renovations in courthouse; basement level up fit started for Public Defender offices; 2<sup>nd</sup> floor space-old jail- has been completed

Nebo Water-Stacy Hill Road Project has 45 new customers since starting up in March

Public Defender Offices – staff is currently operating at new location; HVAC, lights and ceilings completed

Administration Building- all outside would be pressure washed with removal of pebble stones from exterior, and the new and old buildings will all be painted the same; controlled access doors have been completed on the 1<sup>st</sup> floor.

Board of Elections – all equipment has been moved in and in operation

EMS Station #4 (Credit Union bldg) – property closing completed; utilities transferred to the county; outside landscape cleaned up

Courthouse fire – only loss was the AC unit, not enough damage to file an insurance claim

### **Public Services Department Update**

Terry DePoyster, Public Services Director, introduced the new Deputy Director of Public Services, Jimmy Lewis.

Mr. Lewis has visited all seven convenience sites in the county, and is working on making the sites more visible and accessible.

### **Tax Collector Items**

Ms. Linda Onufrey, Tax Collector, presented the 2018-2019 Tax Collection Settlement for property taxes and district taxes, and Order of Collection for approval. Ms. Onufrey reported the collection rate for property taxes (combined) was 99.30%. Ms. Onufrey noted this was a collection record for the department, and was appreciative of her coworkers.

The Board added the percentage spoke well to the staff and the professionalism of the department.

The Order of Collection authorizes the department to collect all taxes for 2019-2020 using the legal means available to the department.

Commissioner McPeters made a motion to approve the Tax Collection Settlement and Order of Collection, second by Vice Chair Brown. By a vote of 4-0, the motion carried.

### **Greenway Update**

Mr. Wooten noted the project is completed, and there will be a walk through on Wednesday, August 14.

Mr. Wooten reported the City of Marion had received a grant for work on the Peavine, per the City's request monies had been diverted to the River Park Greenway and Fonta Flora Trail. He requested authorization for preliminary engineering work, so work would be ready to begin later this year.

Commissioner Greene made a motion to authorize staff to proceed with grant work for the engineering phase, second by Vice Chair Brown. By a vote of 4-0, the motion passed.

Mr. Wooten would like to have a proposal to cost share a grant writer with the Trails Association to work on this project.

Vice Chairman Brown made a motion to approve the request, second by Commissioner Greene. By a vote of 4-0 the motion passed.

### **Economic Development Update**

Mr. Chuck Abernathy, MEDA Director, noted the Public Hearing scheduled for tonight's meeting had to be changed to August 19<sup>th</sup> at 11:30am due to the incentive amount being changed, and unable to make the ten day notice requirement.

Mr. Abernathy presented for approval the engineering contract with A.C.E. Engineering on the Ashworth Road ARC grant. The contract was for the company that will design and assist with the bidding of the construction. A.C.E. Engineering will provide construction documents for Phase 1 road design and permitting of Pond Road and a portion of Shell Road on the Universal industrial property.

Vice Chairman Brown made a motion to approve, second by Commissioner McPeters. By a vote of 4-0 the motion passed.

Next, Mr. Abernathy requested approval of a grant application to extend utilities on the Universal property to extend water and sewer along the roads that will be built in the next year. The Dept. of Commerce grant is for \$352,500 and would require a local match of \$117,500, which would cross over into the next fiscal year. Services would serve Pond Rd and Shell Rd.

### **Department of Commerce Resolution**

**Be it Resolved**, that a grant from the Dept. of Commerce through the County of McDowell be made to assist the Universal Industrial Park project, and

**Whereas**, McDowell County will administer this grant in accordance with the rules and regulations of the Dept. of Commerce; and administer this grant through McDowell County Finance Office, and

**Whereas**, McDowell County will commit \$117,500.00 toward the project cost, and the amount of the grant application will be \$352,500.00

**Be it Resolved** the grant will be monitored quarterly to assure compliance with proposal and the Dept. of Commerce regulations.

**Adopted** this 12<sup>th</sup> day of August, 2019.

---

David Walker, Chair  
McDowell County Board of Commissioners

---

Cheryl L. Mitchell, Clerk  
Clerk to the Board

Vice Chairman Brown made a motion to approve *Department of Commerce Resolution*, second by Commissioner McPeters. By a vote of 4-0 the motion passed.

Mr. Abernathy also advised the plastic outdoor operation had signed their lease and paid rent. The company has hired their first employee and is looking to be operational by October. They are hoping to employ up to 30 employees.

### **Board Appointment**

Commissioner Vaughn's term on the Transportation Advisory Committee of Isothermal Rural Planning Organization was up for reappointment.

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

### **Old Fort School Project Update**

Mr. Wooten advised there had been discussion about the need for improvements to the water pressure for the fire hydrants around the new Old Fort Elementary School. The Project Engineer has showed the hydrants do not meet code around the school. The Town of Old Fort is requesting the school system and the county split the estimated cost of \$200,000 for a new water line to be split three ways. The school system had responded they were not able to give any funds toward the project. The Town is now asking the County to split the cost of a water line replacement with them to remedy the issue.

Vice Chairman Brown noted the county is already committed to \$5M on the school. Mr. Wooten checked with an attorney at School Of Government and advised the Town owns the water system, therefore, it is the responsibility of the Town to keep the water system functioning. Vice Chairman Brown and Commissioner Greene would like to know how much money the Town of Old Fort is committing toward the project.

Vice Chairman Brown made a motion to table the item and send back to Town Aldermen for review and see if they are willing to come back with a better offer, second by Commissioner Greene. By a vote of 4-0 the motion passed.

### **Administrative Items**

Mr. Wooten presented the following items:

Request for a waiver of late fees for occupancy tax since July of 2018 by a homeowner who has short term rentals. The property management company had failed to submit their occupancy tax and all their state taxes. The owner has paid all current taxes but requested a waiver of the \$25,401.98 late filing fees.

Vice Chairman Brown made a motion to table for more information of why fees were late, second by Commissioner McPeters. By a vote of 4-0 the motion passed.

Next request was for a water leak adjustment from the Isbell household in the amount of \$51.25. Documentation was presented that the leak had been repaired.

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

Mr. Wooten advised the approved budget had several vehicles for various departments, including Public Services who had requested two vehicles and now they were ready to order. Recommendation was to do a reimbursement resolution that would allow the purchase of the two vehicles and finance them later with the others.

### **County of McDowell, North Carolina Declaration of Official Intent to Reimburse**

This declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of County of McDowell, NC (the "Issuer") with respect to the matters contained herein.

1. Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for the purchase of vehicles (the "Project").
2. Plan of Finance. The Issuer intends to finance the costs of the Project with the proceeds of debt to be issued by the Issuer (the Borrowing), the interest on which is to be excluded from gross income for Federal income tax purposes.
3. Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$150,000.00.
4. Declaration of Official Intent to Reimburse. The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted this 12<sup>th</sup> day of August, 2019.

By: \_\_\_\_\_  
Cheryl L. Mitchell, Clerk

\_\_\_\_\_   
David Walker, Chair Board of Commissioners

Commissioner Greene made a motion to approve *Declaration of Official Intent to Reimburse Resolution*, second by Vice Chair Brown. By a vote of 4-0 the motion passed.

Request to approve EMS write-offs totaling \$37,075.61 due to being uncollectible.

Commissioner Greene noted he knew the EMS and Finance departments had done all they could to collect monies owed.

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

Mr. Wooten requested a clarification on the fee schedule for foster home inspections. Request was for fire inspection fee to be waived for licensed foster homes regardless of the county of licensure. The current fee is waived if the licensed foster home was licensed in McDowell County. The fee was \$80.

Commissioner Greene made a motion to approve all fire inspection fee waivers for licensed foster homes, second by Vice Chairman Brown. By a vote of 4-0 the motion passed.

### **Subdivision Ordinance Public Hearing**

Chairman Walker declared the Board in Public Hearing at 6:07pm.

Mr. Ronald Harmon noted the proposed change to the Subdivision Ordinance changes the numbers that constitute a Major and Minor Subdivision. The change had no effect on the development standards in the ordinance.

The proposed change in the Minor Subdivision number was 2-10 lots. Any development that met these criteria would be reviewed by Planning Staff.

The proposed change to Major Subdivision was any development that was 11 lots or greater. Any development that met these criteria would require review and sign off by the McDowell County Planning Board.

Discussion by Board members was held concerning protecting the rights to give to your family members for them to live on, and then pass on to their family members.

Mr. Harmon requested additional time for the Planning Board to research the NC General Statutes and obtain an opinion from the School of Government to ensure they had the proper language in the Subdivision Ordinance.

Chairman Walker asked for comment from the public:

Mr. Ken Suttles – If you gave your children parcels of land and later they gave their children part of their acreage is there a problem with doing this per the Subdivision Ordinance proposed changes.

Mr. Harmon noted he did not see any issues with giving the property to the heirs, but there could be issues with the requirements of the fire code per General Statutes. Discussion was held on Subdivision road requirements.

There were no other public comments.

Commissioner McPeters made a motion to go out of public hearing at 6:18pm, second by Commissioner Greene. By a vote of 4-0 the motion passed.

Vice Chairman Brown made a motion to send the Subdivision Ordinance back to the Planning Board for clarification on the family subdivision, second by Commissioner Greene. By a vote of 4-0 the motion passed.

### **Tax Matters**

#### **Releases, Refunds**

MV tax refunds	\$ 1187.67
Releases under \$100	\$ 408.15
Releases over \$100	\$ 12,038.63
Refunds	\$ 480.13

Commissioner McPeters made a motion to approve tax matters with exception of the Banner request, second by Commissioner Greene. By a vote of 4-0, the motion carried.

Mr. Wooten presented a request from Ms. Pam Banner for a waiver for the late penalty due to her belief there was a misunderstanding with the staff. Mr. Wooten noted all business property tax listing must be done in January, unless you file for an extension to the April 15<sup>th</sup> deadline. Ms. Banner files taxes for 50 businesses, and contacted the business tax listing on April 12<sup>th</sup> stating she would not be able to reach the April 15<sup>th</sup> deadline. In early May Ms. Banner indicated to the Tax Assessing department she was still working on the bills. Ms. Banner claims the response from the department was that was fine, they were covered up with listings. Staff of Tax Assessing states they were very clear about the April 15<sup>th</sup> deadline, and were not able to waive any penalties. When the tax bills went out and the businesses received the late fee penalty, Ms. Banner contacted the department and said she was told otherwise. Mr. Wooten noted there was no record where the April 15<sup>th</sup> deadline was put in writing, although he had no doubt the deadline had been conveyed to Ms. Banner.

Chairman Walker noted had the department followed up the phone call with an email stating the deadline and the conversation; it would be a much easier decision for the Board. Vice Chairman Brown stated he hated to see the business owners be assessed the penalties for something that really wasn't their fault.

Vice Chairman Brown made a motion to allow waiver of the late fee penalty, second by Commissioner McPeters. By a vote of 4-0 the motion passed.

### **Friends of Lake James State Park**

Request was presented by the Friends of Lake James State Park for machine equipment costing approximately \$5,000 to help maintain the trails at the Park. The Finance Director indicated the funds could come from the Special Project Fund reserves.

Vice Chair Brown made a motion to approve request, second by Commissioner McPeters. By a vote of 4-0 the motion passed.

### **FEMA Grant**

Mr. Wooten presented a *Resolution Designation of Applicant's Agent* form from FEMA that would allow Mr. William Kehler, Emergency Management Director, to complete the grant documents on the county's behalf. Mr. Kehler was applying for a FEMA hazard mitigation grant

to place a generator at the Senior Center building. The generator would provide power for the Senior Center, the Administration Annex, and the dialysis clinic.

Vice Chair Brown made a motion to approve the Resolution, second by Commissioner Greene. By a vote of 4-0 the motion carried.

### **Citizen Comment**

There were no comments from the public.

### **Reports and Communications**

Reminder of SRO luncheon at the McDowell High cafeteria at 11:30am on Tuesday, August 13<sup>th</sup>; and Broughton Hospital open house and ribbon cutting on Wednesday, August 21<sup>st</sup> at 10am.

### **Adjournment**

There being no further business to transact at this time, upon motion by Vice Chairman Brown, second by Commissioner Greene, the meeting was adjourned at 6:30pm to Monday, August 19<sup>th</sup> at 11:30am in the Commissioner's Board Room.

---

DAVID N. WALKER  
CHAIRMAN

---

CHERYL L. MITCHELL  
CLERK TO THE BOARD