

**STATE OF NORTH CAROLINA  
COUNTY OF MCDOWELL COUNTY  
BOARD OF COMMISSIONERS  
REGULAR SESSION – MAY 11, 2020**

**Assembly**

The McDowell County Board of Commissioners met in Regular Session on Monday, May 11, 2020, at 5:00 p.m., at the Universal Conference Room, 634 College Drive, Marion, North Carolina.

**Members Present**

David N. Walker, Chair; Tony Brown, Vice-Chair; Barry McPeters, Lynn Greene, and Brenda Vaughn

**Members Absent**

None

**Others Present**

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

**Call to Order**

Chair Walker called the meeting to order at 5:00pm. The invocation was given by Vice Chairman Brown, followed by the pledge of allegiance led by Commissioner Greene.

**Approval of Minutes**

Commissioner Greene made a motion, second by Commissioner Vaughn, to approve the April 9, 2020 Recessed Session, April 13, 2020 Regular Session, April 20, 2020 DSS Regular Session; April 27, 2020 Recessed Session; May 4, 2020 Recessed Session minutes as presented. By a vote of 5-0, the motion carried.

**Approval of Agenda**

Chairman Walker added under New Business, Item F. Resolution Requesting Local Authority for COVID-19 Response.

Commissioner McPeters made a motion to approve the agenda with the addition, second by Commissioner Vaughn. By a vote of 5-0, the motion passed.

**PARTF Grant Request**

Blair Melton and Bob Hunter gave a presentation on the development of a Parks and Recreation Trust Fund grant. The Town of Old Fort is working with the Friends of Fonta Flora State Trail. The Fonta Flora State Trail starts in Morganton and comes around Lake James through Marion on to the Town of Old Fort, to Black Mountain all the way to Asheville. The Friends group has 15 members from Burke, Buncombe and McDowell County. Mr. Hunter also noted there were nine trails that come through McDowell County.

The Arrowhead Park property will be purchased in the next couple of months. This would be a trailhead for the Fonta Flora State Park and serve as the gateway into Old Fort as the trail extends across the county. The park will have a playground, picnic tables, a dog park, disc golf, and connection to the Catawba River for fishing. The park will also be connected to the Gateway Museum, Old Fort School, and the depot area.

The proposed project has a budget of \$600,000; with \$300,000 coming from PARTF; \$100,000 from the Town of Old Fort; \$100,000 from a private donor; and requested \$100,000 from the county.

Mr. Wooten noted \$35,000 has been set aside for trails, and the remaining funds could be spread over two to three budget years, paying as work was completed.

Mr. Hunter also requested a resolution in support of the grant application:

**RESOLUTION BY MCDOWELL COUNTY BOARD OF COMMISSIONERS  
IN SUPPORT OF TOWN OF OLD FORT PARKS AND RECREATION TRUST FUND  
GRANT APPLICATION**

**WHEREAS**, the North Carolina Department of Environment and Natural Resources, Division of Parks and Recreation has been authorized by the North Carolina General Assembly to award grant funds to eligible park, recreation and open space projects including recreational trails; and

**WHEREAS**, the Town of Old Fort seeks to develop the Bud Hogan Memorial Park with funds from this grant that will provide recreational opportunities including a playground, dog park, extension of the Fonta Flora State Trail, and public access to the Catawba River for fishing as well as protect a vital natural and cultural resource; and

**WHEREAS**, The Town of Old Fort developed a site plan and cost estimate for the Bud Hogan Memorial Park and Fonta Flora State Trail extension; and

**WHEREAS**, The Town of Old Fort projects the total cost of construction is an estimated \$600,000; and

**WHEREAS**, the Town of Old Fort intends to request funding from the Division of Parks and Recreation in the amount of \$300,000 from the Parks and Recreation Trust Fund (PARTF).

**WHEREAS**, The Town of Old Fort intends to allocate \$100,000 in local match from the Town's General Fund, and utilize \$100,000 from a private donation being held in trust account restricted for the development of the Bud Hogan Memorial Park including construction of the Fonta Flora State Trail through the Park.

**WHEREAS**, the Town of Old Fort has requested financial support in the amount of \$100,000 from McDowell County Government to support the local match requirement for the PARTF grant.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MCDOWELL COUNTY THAT:**

Section 1. McDowell County Government will support the development of the Bud Hogan Memorial Park including extension of the Fonta Flora State Trail and commit \$100,000 from the County's General Fund to match the amount awarded by the State if the Town's application is approved. The funds will be provided to the Town on a reimbursement basis as payments are made to designers, contractors, etc.

Section 2. The Town of Old Fort will be responsible for the efficient operation and maintenance of

the park, trail, and associated recreational facilities upon completion of the project.

Section 3. This resolution shall be effective upon its adoption.

Adopted this the 11th day of May, 2020

Attest:

\_\_\_\_\_  
Cheryl L. Mitchell, Clerk to the Board

\_\_\_\_\_  
David N. Walker, Chairman

Commissioner Greene made a motion to approve and support the *Resolution by McDowell County Board of Commissioners in Support of Town of Old Fort Parks and Recreation Trust Fund Grant Application*, second by Commissioner McPeters. By a vote of 5-0 the motion passed.

### **COVID-19 Update**

Mr. William Kehler, Emergency Services Director, gave the following update:

- this is the 57<sup>th</sup> day of Level 2 response at the EOC-- 581 tested; 520 negative; 30 positive; 31 pending; 1 death
- Operations is still focusing on COVID-19 hotline and screening tool with interaction and real time results
- posting updated statistics on McDowellEM.com website
- ensuring Personal Protective Equipment is available to all healthcare and first responders
- long term care facilities is still a priority; using extreme precautions to prevent the virus out of the 15 facilities
- volunteers have provided masks and helped in food delivery
- Senior Center delivered 980 boxes of food today to senior citizens
- Hurricane season starts June 1 and ES is looking at the new guidelines for congregate sheltering and mutual aid

Mr. Kehler added McDowell County was the first county in WNC to have an online screening tool, and a COVID-19 hotline for those that didn't have internet access. There was also a mail out to the entire county, and also a reverse 9-1-1 call about safety measures and the hotline number.

Chairman Walker thanked Mr. Kehler for his report and all the work of his department.

### **County Operations Update**

Mr. Wooten noted today was the first day the lobbies were open at the Administration and Administration Annex offices. There is currently reduced staff in the DMV office working modified hours. He added staff had been provided masks; splashguards have been put in place where the public has interaction with staff, 6 foot distancing tape has been placed on the floor, and hand sanitizing dispensers are available.

### **EMS Capital Project Update**

Mr. Wooten advised Beam Construction was the lowest base bid at \$777,700 on the Station 4 additions and alterations. The total amount to be financed including construction, design, equipment, etc. would be approximately \$7.4 million for both buildings.

Request for proposal for installment financing is now out for bid. Staff recommended a term of 20 years. The LGC allows that the payments be interest only until the headquarters is occupied, which would be approximately January 2022.

The Board will hold a public hearing on June 4<sup>th</sup> to receive comment on the borrowing and to approve the submission of the financing package to the LGC.

Mr. Kehler noted discussion was started back in 2010 on a four base system for the county. The downtown base services the outlying areas of the county, and it takes a unit five minutes to get out of downtown. He added 80% of the calls are outside of the downtown, and response times will greatly improve with the four bases.

### **Board Appointments**

Written ballots were presented to the Board for appointments to the Planning Board. There were four vacancies and nine applications. After voting, the Clerk tallied and read the votes:

Commissioner McPeters - Pam Forshey, Dustin Hawkins, Arvin Hicks, Jr, Dennis Whitson  
Commissioner Lynn Greene – Arvin Hicks, Jr.; Andrea Parker; Melanie Shaver; Dennis Whitson  
Commissioner Brenda Vaughn – Terry Good; Dustin Hawkins; Arvin Hicks, Jr.; Dennis Whitson  
Vice Chairman Brown – Terry Good; Dustin Hawkins; Arvin Hicks, Jr.; Dennis Whitson  
Chairman Walker – Terry Good; Dustin Hawkins; Arvin Hicks, Jr.; Dennis Whitson

By majority votes Terry Good, Dustin Hawkins, Arvin Hicks, Jr, and Dennis Whitson were elected to the Planning Board.

The McDowell Tech Board of Trustees had one vacancy presented as a first reading. The vacancy will be advertised and voted on at next month's meeting.

The Ag Advisory Board is still seeking applicants.

### **Public Shooting Range**

Mr. Wooten advised staff had met several times with the NC Wildlife to discuss final preparations for the range on Ashworth Road. Chuck Hamrick, of Holland & Hamrick Architects will design the office/training building. Duke Energy will design the electrical access to the site. The bid package is approximately 60-90 days out. The county will handle the bidding and will pay project costs up front with 90% of invoices being reimbursed by NC Wildlife.

### **Administrative Items**

EMS non-collectible write-off accounts totaling \$ 28,966.35 were presented for approval.

Commissioner McPeters made a motion to approve the write-offs, second by Commissioner Greene. By a vote of 5-0 the motion passed.

Human Resources requested approval of a reclassification of an existing employee to Incident Management Team Communications Leader- Grade 63 to be added to the position plan.

Commissioner Greene made a motion to approve the request, second by Commissioner McPeters. By a vote of 5-0 the motion passed.

A resolution was presented for the financing of the purchase of one 2020 Ford F450 Ambulance, two 2020 Ford Police Interceptor Utility AWD, and one 2020 Ford F150 Police Responder

4x4 for Emergency Services and Sheriff's Office. Carolina Alliance Bank responded with the lowest rate of 1.672%, in the amount of \$436,743.55 for a period of four years eight (8) semi-annual payments in arrears beginning December, 2020.

Vice Chairman Brown made a motion to approve Resolution Approving Financing Terms, second by Commissioner McPeters. By a vote of 5-0, the motion passed.

### Resolution Approving Financing Terms

WHEREAS: The McDowell County ("County") has previously determined to undertake a project for the purchase of one (1) 2020 Ford F450 Ambulance, two (2) 2020 Ford Police Interceptor Utility AWD and one (1) 2020 Ford F150 4X4 Police Responder for the Emergency Services Department and Sheriff's Office ("the Project"), and the Finance Director has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The County hereby determines to finance the Project through Carolina Alliance Bank, in accordance with the proposal dated May 5, 2020. The amount financed shall not exceed \$436,743.55, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.672%, and the financing term shall not exceed four (4) years from closing.
2. All financing contract and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the County are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by County officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificated from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The County shall not take or omit to take any action the taking or omission of which shall cause its interest payments of this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The County hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265 (b)(3).
5. The County intends that the adoption of this resolution will be a declaration of the County's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the Carolina Alliance Bank financing described above. The County intends that funds that have been advanced, or that may be advanced, from the County's general fund or any other County fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of County officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 11<sup>th</sup> day of May, 2020.

Attest:

\_\_\_\_\_  
Cheryl L. Mitchell  
Clerk to the Board

\_\_\_\_\_  
David Walker  
Chairman, McDowell County  
Board of Commissioners

**Budget Amendments**

GF 65 – Allocates additional funding for the Juvenile Crime Prevention Council

GF 66—Allocates additional occupancy tax that has been received

GF 67—Allocates donated funds in Cooperative Extension

GF 68 – Transfers between line items and allocates revenue in Public Services

GF 69 – Allocates state revenue in the Register of Deeds

GF 70 – Transfers between line items at DSS

GF 71 – Allocates grant revenue at Emergency Services

GF 72 – Allocates motor vehicle tax to pay for debit/credit card fees at the tag office

GF 73 – Appropriates restricted revenue at the Sheriff's Office

GF 74 – Appropriates revenue and transfers between line items at the Senior Center

GF 75 – Appropriates revenue and transfers between line items to cover health insurance costs

FD 1 – Allocates sales tax to the fire districts

FD 2 – Allocates estimated property tax collections to the fire districts

ENT3 – Transfers between line items in the Waste Enterprise Fund

NWENT3 – Allocates revenue for in the Water Fund

Transit2 – Transfers between line items in the Transit budget

SI2 – Allocates revenue sources and appropriates fund balance for the self-insurance fund

Commissioner Greene made a motion to approve all budget amendments as presented, second by Commissioner Vaughn. By a vote of 5-0 the motion passed.

**JCPC Annual Plan Approval**

Mr. Wooten presented the Juvenile Crime Prevention Council (JCPC) community programs funding plan and certifications for approval. The community programs are: JCPC Admin; Aspire Youth and Family Kids at Work; McDowell County Schools Project Rise; Repay Sex Offender Treatment; Repay Temporary Shelter; Project Challenge; McDowell County Schools High School Peer Group Connection; and Aspire Youth and Family Vocational Directions.

Commissioner McPeters made a motion to approve the annual plan, second by Commissioner Vaughn. By a vote of 5-0 the motion passed.

**Golden Leaf Grant Initiative**

The Golden Leaf Foundation recently announced the Community-Based Grants Initiative for the twelve county Northwest Prosperity Zone, of which McDowell County is a member.

The grant will provide a maximum of \$11 million for the region. Each county is eligible to submit grant projects up to a total of \$1.5 million; although there is no guarantee each county will receive funding. Mr. Wooten advised the City of Marion, Chamber, MEDA, and staff is working to identify about five projects to submit for approval. There is still time for interested agencies to apply since applications are due in October.

**City of Marion Dispatching Agreement Request**

In 2011 the City, County and Sheriff’s Office had separate dispatchers at each of the three entities. The City of Marion entered into a 911 Interlocal Agreement with the county. The City agreed to fund two dispatchers, provide space in the lower level of the City Police Dept., and the county would be responsible for utilities, and all operational responsibilities.

The City of Marion requested to amend the agreement to reduce and eliminate the fees that the City pays the County for dispatching services. The request was to lower the current \$118,000 cost the City pays for dispatching services to \$80,000 in fiscal year 2020-2021, then to \$40,000 in 2021-2022; and then to \$0 for 2022-2023 and future fiscal years.

Discussion followed regarding the county costs for utilities and maintenance.

Vice Chairman Brown made a motion to table the item until the next meeting, second by Commissioner Vaughn. By a vote of 5-0 the motion passed.

**Tax Matters**

**Releases & Refunds**

MV tax refunds	\$ 399.44
Releases over \$100	\$ 210.37
Discoveries	\$ 8,789.59

Commissioner McPeters made a motion, second by Commissioner Greene to approve all tax matters as presented. By unanimous vote of 5-0, the motion carried.

**Resolution Requesting Local Authority for COVID-19 Response**

The Board had instructed staff to draft a resolution requesting local authority for COVID-19

response advocating for small businesses being allowed to open, and churches being classified as essential.

Commissioner Greene read Article 1: Section 13 of the NC State Constitution. Commissioner McPeters noted there would be a lawsuit brought up this week against the Governor's Executive Order as to churches not allowed to meet inside.

The Board was in agreement that small businesses could do the same safety practices as the large big box businesses.

Consensus from the Board was to have staff make changes to the resolution and send out to the Board for input. The final draft would be presented for approval at the May 18<sup>th</sup> meeting at 11:30am.

Chairman Walker asked County Attorney Fred Coats for his legal opinion on what the county government could or could not do regarding the Governor's Executive Order. Attorney Coats said he didn't disagree with the Board regarding their rights and liberties. He read part of a commentary from Jon Guze from John Locke Foundation and Justice Orr. Justice Orr would not bring a lawsuit against the Government regarding churches not being able to meet due to churches had not been eliminated.

He added all counties are creatures of the state, counties exist by virtue of the state, and all powers given to the county are given by the General Assembly. NCGS 153A-11 gives corporate powers of the county in conformity of the laws of the state.

Attorney Coats added Governor Cooper had not exceeded his authority because we are under the State Of Emergency. Also, under NCGS 166A Emergency Management Act the Governor has authority to give his executive orders.

Vice Chairman Brown asked Attorney Coats if the Board as county government officials could override the Governor's Executive Order. Attorney Coats said the answer was no, legally the Board can lobby with resolution, calls, and emails.

### **Citizen Comment**

Chair Walker opened the floor for public comments at 6:38pm.

Rick Wetzel—concern for restaurants not being open for business; would like to see outside seating with 6' distance

Roxanne Wetzel—concern for small businesses when the ban is lifted will have hard time hiring employees; she also read a statement from Mark Robinson, Rep candidate for Lt. Gov.

### **Reports and Communications**

There were none.

### **Adjourn**

There being no further business to transact at this time, upon motion by Commissioner McPeters, second by Commissioner Greene, the meeting was adjourned at 6:52pm.

Attest:

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CHERYL L. MITCHELL  
CLERK TO THE BOARD

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DAVID N. WALKER  
CHAIRMAN